



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, FRIDAY, JULY 21, 2017/ASHADHA 30, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 21st July, 2017:—

### BILL NO. 87 OF 2016

*A Bill to increase the minimum age of marriage for woman from eighteen years to twenty one years and to establish a National Population Stabilisation Authority to look into the schemes to encourage two-child norm and having an appropriate gap between children, incentivising adoption, creating recreational centres in villages, formulating policies wherein certain minimum criteria is present before a family can start having children and for all matters connected herewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Population (Stabilisation) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commence-  
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "annual report" means a report giving the details of developmental activities taken up and targets set and achieved over the year by the Authority;

(b) "Authority" means the National Population Stabilisation Authority established under section 4;

(c) "prescribed" means prescribed by the rules made under this Act; and

(d) "small family" means family having not more than two living children.

Minimum age of marriage for woman.

3. Notwithstanding anything contained in any other law for the time being in force, the minimum age for marriage for woman shall be twenty one years.

Constitution of National Population Stabilisation Authority.

4. (1) With effect from such date as the Central Government may, by notification in Official Gazette appoint, there shall be constituted, for the purposes of this Act, an Authority to be known as the National Population Stabilisation Authority.

(2) The Authority shall consist of:—

(a) the Director General of Health Services, Ministry of Health and Family Welfare—*ex-officio* Chairperson;

(b) the Secretaries of the Union Ministries of Human Resource Development, Health and Family Welfare and Statistics and Programme Implementation—*ex-officio* Members;

(c) the Director, International Institute of Population Sciences—*ex-officio* Member;

(d) the Director, National Institute of Health and Family Welfare—*ex-officio* Member;

(e) Senior Research Officer or equivalent officer of Population Research Centres, Ministry of Health and Family Welfare—*ex-officio* Member;

(3) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(4) The salary and allowances payable to, and terms and conditions of services of officers and staff of the Authority shall be such as may be prescribed.

Meetings of the Authority.

5. The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed.

Functions of the Authority.

6. (1) The Authority shall discharge such functions as may be necessary to ensure stabilisation of population in the country and formulate a comprehensive policy within one year after its constitution to achieve the purposes of this Act.

(2) Without prejudice to the provisions contained in sub-section (1), the Authority shall—

(a) undertake a baseline study to collect data about small families and to help arrive at a qualitative human dignity index which shall be completed within one year of setting up of the Authority;

(b) recommend to the Central Government, a framework to regulate families to have children based on certain minimum standards fixed, including the human dignity index;

(c) formulate schemes to provide for subsidised healthcare, education upto college level for the first child and to the second child only if gap between children is greater than four years;

(d) provide for funds to help incentivise adoption of children;

(e) establish recreational centres at panchayat level to host traditional art forms and also use them as medium to disseminate messages regarding family planning;

(f) recommend to the Central Government penalties to those who do not follow the said policies framed by the Authority;

(g) undertake, promote and publish studies relating to the Indian population and the impact of developmental schemes on population stabilisation;

(h) frame syllabus for including awareness about family planning in school curriculum;

(i) provide for free contraceptives devices through the recreational centres;

(j) conduct awareness campaigns relating to medical procedures regarding birth control and strive to improve sterilisation rates among men, in particular; and

(k) undertake such other activities as may be prescribed by the Central Government.

(3) The Authority shall disseminate any necessary knowledge and information collected, to the respective departments of the State Governments.

7. (1) The Authority shall prepare once every year, a report giving the summary of its activities undertaken during the previous year and statement of annual accounts to the Central Government in such form and manner as may be prescribed.

Annual report and its laying before the Parliament.

(2) The Central Government shall cause such report to be laid before each House of Parliament as soon as it is received.

8. The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it be necessary or expedient for the removal of any difficulty:

Power to remove difficulty.

Provided that no such order shall be made under this section after the expiry of three years from the date of commencement of this Act.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

According to the last census of 2011, the population of our country stood at one hundred and twenty-one crores. The Government estimates that it is approximately one hundred and twenty-seven crores in 2016 and by 2025 it will be one hundred and thirty-nine crores. The annual rate of growth has been about 2 per cent with a total fertility rate at 2.3 per cent. India spans 2.4 per cent of the land area of the world but contains 15 per cent of the world population. One fact to note is that more than 50 per cent of this population is within the reproductive age of 18—50 years. Expert reports suggest that the population in India will stabilize only around the year 2045. This growing population creates enormous stress on infrastructure and leads to rapid usage of natural resources. This population pressure leads to deterioration of the quality of basic human sustenance.

Our country has the largest number of under-nourished children and malnourished woman. We have one of the highest number of illiterate children in the world. The huge population is one of the main reasons which has led to such a pathetic scenario. The primary infrastructure needed for survival is crumbling fast. This problem of un-controlled growth in population has various socio-economic reasons. One major factor is that families in our country, mainly in the rural areas, equate more kids to safer livelihood. The poverty prevalent in large parts of our country, creates a situation where more children means more hands to go to work and earn for the household. Another contributing factor has been social practices like child marriage or marriage at an early age which leads to a scenario where the first pregnancy happens early. Some studies also point out the idle lifestyle among people in villages, as a causative reason for this. Even though medical science has shown rapid advancements, lack of awareness among the rural parts of our country has still kept large portions of our society in darkness.

The Bill seeks to increase the minimum age of marriage of woman from 18 years to 21 years. This will ensure that the woman is better informed and attains greater mental maturity before having her first child. Also, it is proposed in this Bill to constitute a National Population Stabilisation Authority consisting of Members from the concerned Ministries and expert bodies. This body will be responsible for stabilizing the population growth in the country. It will recommend measures wherein, a family will be allowed to have a child only when certain basic living conditions are present and if they are absent, this body will take measures to provide for the same. It will also bring in schemes to provide for subsidised healthcare and higher education along with assured job opportunities for the first child. The same will be applicable for the second child only if the gap between two children is greater than four years and will be discontinued if the family has more than two children. It will work to frame a policy providing for greater incentives to the girl child. The body shall organise greater awareness campaigns regarding medical science relating to contraceptives and surgical birth control procedures. It shall also help develop recreational centres in rural areas which will host traditional art forms to keep the community engaged and also use it as a mode of spreading the Government's message.

This Bill, by providing a comprehensive plan to help stabilise the population, will help to fill the long pending void for a legislation in the area of population control. Development in both the social and economic aspects of the people is the best solution to control population and the independent body established by this Bill, will aim to work towards this objective. This will result in higher standards of living for the citizens of the country, thereby creating greater quality of human capital which is much needed in India's journey to become a developed superpower.

Hence this Bill.

NEW DELHI;  
March 31, 2017.

RAMESH POKHRIYAL 'NISHANK'

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#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of National Population Stabilisation Authority and also appointment of such number of officers and staffs for its functioning. Clause 8 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees two thousand crore per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 84 OF 2016

*A Bill to provide for the rehabilitation measures to be undertaken and payment of adequate compensation by the Central and State Governments to the victims of acid attacks, sexually abused or raped and trafficked girls and women from weaker sections and tribal and rural areas pushed for working as domestic maids or into flesh trade by the placement agencies, pimps and traffickers and for making it mandatory for the State to bear all costs of treatment including cosmetic and other requisite surgeries for all such victims and for matters connected therewith or incidental thereto.*

WHEREAS various criminal laws for the time being in force in the country provide for the penalty and criminal procedure to be followed against the accused of acid attack or

rape or gangrape or trafficking and pushing girls and women into prostitution and such other offences;

AND WHEREAS most of such laws are silent on the rehabilitation of the victims, huge amounts required for their treatment including several surgeries including cosmetic surgeries for acid attack victims and the adequate financial assistance to withstand the trauma and lead a respectable life in the society;

NOW THEREFORE, it has become necessary to provide for the compensation and rehabilitation of victims of acid attack, sexually abused and trafficked girls and women by the State.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Victims of Acid Attack, Sexually Abused and Trafficked Girls and Women (Compensation and Rehabilitation) Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Fund" means the National Abused and Attacked Girls and Women Rehabilitation and Welfare fund established under section 4;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "sexually abused" means where rape or gangrape is committed on a girl or women, as the case may be;

(e) "trafficking" includes procuring, luring or supplying a girl or women, as the case may be, for forced domestic work or forcing into prostitution or any unlawful and immoral purpose;

(f) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts.

45 of 1860.  
2 of 1974.  
104 of 1956.

**3.** (1) The Central Government shall promote and undertake such measures as it thinks fit and appropriate and take various other rehabilitation and welfare measures for the victims of acid attack, sexually abused and trafficked girls and women throughout the country.

Rehabilitation  
and welfare  
measures for  
the victims of  
acid attack,  
sexually abused  
and trafficked  
girls and  
women.

(2) Without prejudice to the generality of the provisions of sub-section (1), the rehabilitation and welfare measures may provide for—

(a) setting up of one stop crisis centres at conspicuous places in different parts of the country for extending necessary help and facilities to girls and women covered under this Act, by the Police and other agencies;

(b) extending all required medical facilities including surgeries of all kinds irrespective of their numbers for acid attack and rape victims and with all medicines, bandages, and indoor and outdoor facilities till they are fully cured and counselling by specialists to the victims;

(c) making ex-gratia payment of not less than rupees five lakh to every victim of acid attack or rape covered under this Act;

(d) rehabilitation measures such as employment in Government or its organizations through reservation and other means or for making them self employed,

through vocational training; and

(e) such other facilities as may be prescribed.

Establishment  
of National  
Abused and  
Attacked  
Girls and  
Women  
Rehabilitation  
and Welfare  
Fund.

4. (1) The Central Government shall, as soon as may be, by notification in the official Gazette, establish a Rehabilitation and welfare Fund to be called the National Abused and Attacked Girls and Women Rehabilitation and Welfare Fund for the purposes of this Act with initial corpus of rupees thirty thousand crore to be provided by the Central Government by due appropriation made by law by Parliament in this behalf and thereafter the Central Government and Governments of the State shall contribute to the Fund to such extent and in such manner as may be prescribed.

(2) The Fund shall also comprise money received from body corporate and financial institutions of both domestic and international ones, individuals and bodies through donations.

(3) All money received in the fund shall be defrayed for carrying out the purposes of this Act in such manner as may be prescribed.

Establishment  
of shelter  
homes.

5. The appropriate Government shall establish and run such number of shelter homes as it may deem necessary for the girls and women covered under this Act who may opt for living in such shelter homes and such girls and women shall be lodged in these shelter homes with necessary facilities of daily life, as may be prescribed.

Central  
Government  
to provide  
funds for the  
purposes of  
the Act.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, from time to time, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Power to  
remove  
difficulty.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

Power to  
issue  
direction.

8. The Central Government may give such directions to any State Government as may appear to it to be necessary for carrying out execution in the State any of the provisions of this Act or of any rule made thereunder.

Act to have  
overriding  
effect.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to  
supplement  
other laws.

10. The provisions of this Act, shall be in addition to and not in derogation of any other law for the time being applicable to girls and women covered under this Act.

Power to  
make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be

## STATEMENT OF OBJECTS AND REASONS

Of late, it is a matter of serious concern that crimes against girls and women have increased manifold in our country particularly the cases of rapes and gangrapes and acid attacks on the girls and women. Four years back, the brutal gangrape and killing of Nirbhaya had shaken the entire Nation after which the law was amended to make it more deterrent but despite that hardly any day goes without reports of rapes and gangrapes being committed in the national capital and rest of the country.

These days the national capital is often referred to as the rape capital. The victim of rape feels the trauma of being raped throughout her life and unfortunately most of them do not lead a normal life. The society also blames the rape victims and they remain unmarried and if rape is committed on a married woman she is normally disowned by her husband and inlaws. In this backdrop of backlash, many rape victims take the extreme step of committing suicide which ultimately help the accused. Here counselling, financial assistance and rehabilitation becomes more important so that the rape victims become courageous to see the accused behind the bars.

Similarly, cases of acid throwing on girls and women are on the rise. The acid thrown on a girl or woman many a times kills her but if, she survives that is more horrifying. Her face is disfigured, loses her eyes and other body parts are severely burnt. Apart from suffering extreme pain and agony she has to undergo many surgeries, bandages and medication which require huge money which most of the victims are unable to bear and they are left to fend for themselves. For these hapless acid attack victims financial assistance, free medication and cosmetic surgeries and rehabilitation becomes all the more necessary.

Then, these days girls belonging to poverty stricken families of rural areas and tribals areas are lured and trafficked to urban areas by showing them dreams of good life and employment opportunities and are sold to so called Placement agencies who further sell them to people for household chores and for forced prostitution. Even if, Police rescue them these unfortunate girls and women also require rehabilitation and other welfare measures. This Bill also seeks to set up a National Abused and Attacked Girls and Women Rehabilitation and Welfare Fund for the victims of acid attack, sexually abused and trafficked girls and women apart from providing other welfare and rehabilitation measures.

Hence this Bill.

NEW DELHI;  
March 31, 2017.

RAMESH POKHRIYAL 'NISHANK'

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill, provides for the rehabilitation and welfare measures for the girls and women. Clause 4 provides for the establishment of a Fund with initial corpus of rupees thirty thousand crore by the Central Government. Clause 6 makes it mandatory for the Central Government to provide adequate funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty five thousand crore may involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees twenty thousand crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

## BILL NO. 91 OF 2017

*A Bill to prevent the institution or continuance of vexatious proceedings, in civil and criminal matters in the High Courts and Courts subordinate thereto and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Vexatious Litigation (Prevention) Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** (1) An application for declaring a person as a vexatious litigant, may be filed in the appropriate High Court—

Declaration of  
a person as a  
vexatious  
litigant.

(a) by the Advocate General or in absence of Advocate General, by a senior advocate nominated by the High Court in this behalf; or

(b) by the Registrar General of the High Court; or

(c) with the leave of the High Court, by a person against whom the proceedings, civil or criminal, have been instituted or are being continued.

(2) If, on application being filed under sub-section (1), the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings, civil or criminal, in any court, whether against the same person or against different persons, the High Court may, after giving the person who has instituted such proceedings, an opportunity of being heard, declare that person as a vexatious litigant and shall also order as provided under sub-section (1) of section 4:

Provided that if an application is filed by any person referred to in clause (b) or (c) of sub-section (1), the Advocate General or, in the absence of Advocate General, such senior advocate, as may be nominated by the High Court in this behalf, shall also be heard.

Leave of Court necessary for vexatious litigant to institute or continue any civil or criminal proceedings.

3. (1) Subject to the provisions of sub-section (2) when the High Court under sub-section (2) of section 3 or under sub-section (2) of section 6 declares a person as a vexatious litigant, it shall also order that—

(a) no vexatious proceeding, civil or criminal, shall be instituted by the said person in the High Court or in any other Court subordinate to that High Court; and

(b) no vexatious proceeding, civil or criminal, already instituted by the said person in the High Court or in any other court subordinate to that High Court, shall continue without obtaining the leave of the appropriate Court or appropriate Judge.

(2) It shall not be necessary for the person declared as a vexatious litigant to obtain leave in the following cases—

(a) where such person has instituted a proceeding in the appropriate Court before the appropriate Judge for the purpose of obtaining leave; or

(b) where, in any matter instituted against him, such person proposes to file or take appropriate proceedings to defend himself; or

(c) where, in a proceeding instituted or continued by such person after obtaining leave from the appropriate Court or the Judge, the said person proposes to file or take appropriate further proceedings.

(3) The leave under sub-section (1) shall not be granted unless the appropriate Court or the appropriate Judge, as the case may be, is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* reasonable ground for granting leave to institute or continue proceedings by the person declared as a vexatious litigant.

Publication and communication of order.

4. (1) Every order made under sub-section (2) of section 3, declaring any person as a vexatious litigant, shall be published in the Official Gazette and may also be published in such other manner as the High Court may direct.

(2) Every order referred to in sub-section (1) shall also be communicated to all the courts subordinate to the High Court which passed such order.

Proceedings, civil or criminal, instituted or continued without leave of the appropriate Court to be dismissed and other consequences.

5. (1) Where any proceedings, civil or criminal, is instituted or continued in any court by a person against whom an order under sub-section (1) of section 3 has been made without obtaining the leave required to be obtained from the appropriate Court or appropriate Judge, such proceedings shall be dismissed by the said court.

(2) The court while dismissing the proceedings under sub-section (1) shall, in addition, further direct such vexatious litigant to pay costs.

(3) Every person referred to in sub-section (1) who has instituted or continued any proceedings without leave as aforesaid, may also be liable for punishment for contempt of the High Court which had passed the order under sub-section (1) of section 3.

6. (1) Where any person against whom an order under sub-section (1) of section 3 has been made by a High Court, institutes or continues any proceedings, civil or criminal, in another High Court or in a Court subordinate to such High Court, then the person referred to in sub-section (1) of section 2 may make an application to such high Court for declaring such person as a vexatious litigant.

Declaration and order by more than one High Court.

(2) If, on an application filed under sub-section (1), the High Court is satisfied that any person has been declared as a vexatious litigant under sub-section (2) of section 2, by another High Court, the High Court may, after giving an opportunity of being heard to the person who has instituted or continued any proceeding, civil or criminal, declare that person as a vexatious litigant and shall also order as provided under sub-section (1) of section 3.

(3) Where an application under sub-section (1) is filed, the provisions of sub-sections (2) and (3) of section 2, and sections 3, 4 and 5 shall apply in relation to such application.

7. (1) Every High Court may make rules for implementing the provisions of this Act.

Power of High Court to make Rules.

(2) All rules made under this section shall be published in the Official Gazette.

8. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law providing for striking out vexatious pleadings or prevention of abuse of process of law, or which require consent, sanction or approval in any form of any other authority for the institution or continuance of any civil or criminal proceeding.

Saving.

## STATEMENT OF OBJECTS AND REASONS

Frivolous and vexatious litigations are the cause of concern for the courts for quite some time. Often, this matter has been highlighted by various courts and the Law Commission has also favoured for a check on the filing of frivolous and vexatious proceedings. At times, it has been seen that many persons abuse the process of law and indulge in the habitual and intentional filing of frivolous and vexatious civil or criminal proceedings to harass other persons without any reasonable ground. It has also been observed by the courts that some persons habitually and persistently file cases on the issues, which have already been decided once or more than once against some parties or their successors or against different parties. Besides the harassment, filing of such proceedings also leads to wastage of the precious time of the law courts which are already burdened. Such frivolous litigation cause unnecessary and avoidable strain on the States' resources in the area of dispensation of justice.

There is no denying of the fact that every person has the right to file civil or criminal proceedings against any other person, but a check is necessary to allow the court to examine the *bona fide* of a person filing the proceeding. Many countries in the world, like the USA, the UK have enacted a law on the filing of frivolous and vexatious litigation. In our country also, there is a law on the subject in two States, *i.e.*, Tamil Nadu and Maharashtra. In view of the concern expressed by the courts, it is necessary that a central law be enacted to prevent the filing of frivolous and vexatious complaints by declaring such a person as vexatious litigant, who may thereafter be barred from filing or continuing any such complaint without the permission of the High Court or the appropriate Court. It is also felt that if a person is declared as vexatious litigant, provision should also be made to punish him for the contempt of the court besides directing him to pay the cost.

Hence this Bill.

NEW DELHI;  
March 31, 2017.

RAMESH POKHRIYAL 'NISHANK'

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the concerned High Court to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 79 OF 2017

*A Bill to prohibit the publication and dissemination of objectionable material on religion in any form in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Prohibition of Publication and Dissemination of Objectionable Material on Religion Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "Agency" means the Agency for Prohibition of Publication and Dissemination of Objectionable Material on Religion as established under section 4;

(b) "complaint" means an objection registered with the Agency by any Indian citizen or institution;

(c) "dissemination" means information communicated through recorded messages on telephones, radio, television, internet film-strip, movies or videos along with other means of communication;

(d) "objectionable material" means any publication or dissemination of contents hurting the religious sentiments of any Indian citizen;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "publication" means a book, article, picture, photograph, pamphlet, advertisement on poster, banner or any other printed document.

**3.** Notwithstanding anything contained in any other law for time being in force, the publication and dissemination of objectionable material on any religion in the country is hereby prohibited.

Prohibition of publication and dissemination of objectionable material on religions.

**4. (1)** The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Agency to be known as the Agency for Prohibition of Publication and Dissemination of Objectionable Material on Religion for carrying out the purposes of this Act.

Establishment of an Agency for Prohibition of Publication and Dissemination of Material on Religion.

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Agency.

(3) The salary and allowances payable to and other terms and conditions of service of the officers and staff employed in the Agency shall be such as may prescribed.

(4) The headquarters of the Agency shall be at such place, as may be prescribed.

**5.** The Agency shall—

Functions of the Agency

(a) register complaints pertaining to the publication and advertisement on dissemination of objectionable material on religion received from concerned institutions and public, and their redressal;

(b) investigate the complaints duly registered;

(c) impose a prohibition on publication and dissemination thereof, on the basis of the outcome of investigation; and

(d) derecognise the respective publisher and advertising agency involved in publication and dissemination of objectionable material on religion.

**6.** Whoever contravenes the provisions of section 3 shall be punished with imprisonment for a term which shall not be less than two years but which may extend upto five years and with a fine which may extend upto one lakh rupees.

Penalty.

**7.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Agency, such requisite funds, from time to time, as may be necessary, for carrying out the purposes of this Act.

Funds to be provided by Central Government.

**8.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**9. (1)** The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under his Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

## STATEMENT OF OBJECTS AND REASONS

In recent times, there has been a sudden rise in the cases of Publication and dissemination of objectionable material on religion in the country. Certain mischievous elements try to hurt the religious sentiments of citizens of the country with support from certain publishers and advertising agencies. In the name of right to freedom of expression enshrined in our Constitution, they tend to threaten the integrity of the country. Such publication and dissemination of objectionable material on religion needs to be restricted in order to preserve the secular fabric of the country.

Hence this Bill.

NEW DELHI;  
*March 31, 2017.*

RAMESH POKHRIYAL 'NISHANK'

#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of an Agency for Prohibition of Publication and Dissemination of Objectionable Material on Religion and appointment of officers and employees in the Agency. Clause 7 provides that Central Government shall provide the funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees six hundred crores is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 101 OF 2017

*A Bill to provide for compulsory teaching of Vedic education in educational institutions  
and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Teaching of Vedic Education in Educational Institutions Act, 2017. Short title, and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires, —

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Council" means the Vedic Educational Council established under section 5;

(c) "educational institution" means an institution imparting primary, middle, secondary or higher secondary level education to children, by whatever name such institution is called, but does not include a minority educational institution;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "Vedic education" includes knowledge of non-religious character, derived mainly from Vedic literature, Vedic philosophy and Vedic life.

Compulsory teaching of Vedic education in educational institutions.

**3.** From such date as the Central Government may, by notification in the Official Gazette, specify, the Vedic education shall be taught as a compulsory subject in all educational institutions in such form and manner as may be prescribed by the Central Government on the recommendation of the Council.

Appropriate Government to issue direction for compulsory teaching of Vedic education in educational institutions.

**4.** The appropriate Government shall, immediately after issuance of the notification under section 3, issue direction for compulsory teaching of Vedic education in all educational institutions within its jurisdiction.

Constitution of Vedic Education Council.

**5. (1)** The Central Government shall, by notification in the Official Gazette, constitute a Council to be known as the Vedic Educational Council.

(2) The Council shall consist of a chairperson and such number of members, having special knowledge or experience in the fields of history, education or Vedic studies, as the Central Government may deem fit.

Functions of the Vedic Education Council.

**6.** The Council shall—

(i) recommend the class from which onwards the Vedic education shall be taught in educational institutions;

(ii) recommend the syllabus of Vedic education for each class up to senior secondary level;

(iii) recommend the class or category of students or educational institutions which shall be exempt from the provisions of the Act; and

(iv) prescribe the principles and standards to be observed for granting accreditation to institutions imparting training to teachers of Vedic education.

Penalty for failure to comply with section 3.

**7.** The appropriate Government shall, on the recommendation of the Council, derecognise an educational institution or impose such fine as may be prescribed, for failure to comply with the provisions of section 4:

Provided that no educational institution shall be so derecognised or a fine be imposed thereon unless a reasonable opportunity of being heard has been provided to such institution.

Central Government to provide funds.

**8.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Government for carrying out the purposes of this Act.

**9.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**10.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Removal of difficulties.

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**11.** (1) The Central Government may, by notification, make rules to carry out the purpose of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The Vedic period is considered among the most glorious periods in the Indian history. The period witnessed rise of the Vedic civilization which flourished socially, culturally and educationally. The richness of Vedic culture is so clearly evident in Vedic literature—the Vedas being the most prominent among them. It is not surprising that Vedic philosophy enshrined in Vedic literature pervaded all walks of life. A grave misconception that has subsisted over centuries is that Vedic literature is predominantly religious in character. Rather, the Vedas are eternal and their appeal is universal since they transcend all religions. In fact, the essence or core of all religions, where they all agree, is the true Vedic religion.

Vedas talk about equality, universal brotherhood, harmonious development of life and a rational thinking. The essence of Vedic knowledge, therefore, lies in those philosophical aspects that teach people to lead a life to its perfection. This is exactly what was sought to be achieved by imparting education in gurukuls.

Unlike the modern education, which is largely academic in nature, Vedic education was more comprehensive in nature. It was not intended just to ensure employability of the pupils. Rather, it aimed at formation of individual character and inculcation of a sense of righteousness, self-control and discipline. Towards this end, vedic education touched all aspects of human life—from physical development to sublimation of instincts, commitment to motherland and indebtedness to mother earth.

Thus, the basic idea underlying Vedic education was to create a responsible citizenry, which is relevant to the present times too. For instance, the elimination of ill-gotten wealth is on top of the Government agenda these days. Such ill-gotten wealth was decried in *Atharva Veda* as follows:

"Keep away from me that wealth which brings about my fall, and results in my defame, which entangles me from all sides, and withers me like a parasitic plant, that withers away the supporting tree: so bless me with that wealth which gives peace and joy."

"Wealth obtained by unfair means must be banished from every place. Such wealth should bear indelible markings like being branded by hot iron in order that it is identified and shunned by everybody."

Considering the relevance of the objectives enshrined in the Vedas in the present age and the contribution the Vedic education can make towards the objective of creating a responsible citizenry, the Bill seeks to provide for compulsory teaching of Vedic education in educational institutions.

Hence this Bill.

NEW DELHI;  
April 6, 2017.

SATYA PAL SINGH

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#### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of the Vedic Education Council consisting of such number of members as may be prescribed. Clause 8 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees fifteen crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 43 OF 2017

*A Bill to ensure speedy removal of social and economic disparity through targeted expenditure on special schemes for the welfare and development of the persons belonging to the Scheduled Castes and the Scheduled Tribes and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Scheduled Castes and the Scheduled Tribes Sub Plans (Budgetary Allocation and Special Schemes) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “prescribed” means prescribed by the rules made under this Act;

(b) “Scheduled Castes Sub Plan” means the process of funds allocation, identification and preparation of exclusive schemes, the expenditure on such schemes and the analysis of its final outcome, for the Scheduled Castes;

(c) “special schemes” means schemes which focus on individual beneficiary schemes, family oriented cum income generation schemes for development of persons belonging to the Scheduled Castes and the Scheduled Tribes and Scheduled Castes and Scheduled Tribes families and schemes for improving the physical and social infrastructure of localities and community infrastructure like special schools for girls and boys, coaching centers, working womens’ hostel, special libraries, health and employment; and

(d) “Tribal Sub Plan” means the process of funds allocation, identification and preparation of exclusive schemes, the expenditure on such schemes and the analysis of its final outcome, for the Scheduled Tribes.

3. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, make separate budgetary allocation for the welfare and development of persons belonging to the Scheduled Castes and the Scheduled Tribes, in proportion to their population.

Budgetary allocation for Scheduled Castes and the Scheduled Tribes.

(2) The budgetary allocations so earmarked under sub-section (1) shall be spent only on special schemes in such manner, as may be prescribed.

(3) The budgetary allocations under the Scheduled Castes Sub Plan and Tribal Sub Plan shall not be diverted for any other purposes or allowed to lapse.

(4) For the purposes of this Act, the Ministry of Social Justice and Empowerment, Government of India shall be the nodal Ministry for the Scheduled Castes Sub Plan and the Ministry of the Tribal Affairs shall be the nodal Ministry for Tribal Sub Plan.

(5) The Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs shall present separate Annual Budgets and Performance Budgets for the Scheduled Castes Sub Plan and Tribal Sub Plan, respectively.

4. Whoever contravenes the provisions of sub-sections (2) or (3) of section 3 shall be guilty of wilful and deliberate act of dereliction of duty and shall be punished under section 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 after fixing the individual responsibility.

Penalties.

5. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions contained in this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after expiry of two years from the date of commencement of this Act.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The legislative efforts undertaken to close the development gap between Dalits and Adivasis and other date back to 1950, when the Constitution provided opportunities for the Scheduled Castes and the Scheduled Tribes in the areas of education, employment in public services and electoral seats through the policy of reservation. From economic point of view, the most important policies approved so far are the Tribal Sub Plan (STP) and the Special Component Plan (SCP), now called Scheduled Castes Sub Plan (SCSP), executive budget policies, according to which funds and resources are to be reserved across Central Ministries and Departments in the State Governments in proportion to the Scheduled Castes/Scheduled Tribes population at the National, as per the current census data.

However, close scrutiny of the current situation reveals that these two policies have not been implemented effectively. The money earmarked under these policies is diverted for general scheme and does not go for funding of the schemes, exclusively for the benefit of the Scheduled Castes and the Scheduled Tribes. It is not surprising that Dalits and Adivasis still remain far away from mainstream development in the country. The literacy gap is still quite high and the dropout rate is still high. The rate of infant mortality and child mortality under five is higher among the Scheduled Castes and the Scheduled Tribes than among other social group; the Scheduled Castes and the Scheduled Tribes are still less equipped with the basic requirements for human survival like water and power supply facilities, latrines, sewerage, houses, etc. and poverty is still very rampant among them.

In fact, positive and substantial changes require making appropriate allocation of funds compulsory, their distribution timely and focused and effective management of the funds for the welfare of the Scheduled Castes/Scheduled Tribes. Hence, there is a need to introduce a new piece of legislation with the objective of achieving the holistic and speedy economic development of these communities. In order to ensure speedy economic development of the persons belonging to the Scheduled Castes and the Scheduled Tribes, it is proposed to give statutory back up to the SCSP and STSP and a strict monitoring on their implementation, without diversion of funds earmarked for welfare of the Scheduled Castes and the Scheduled Tribes.

Hence this Bill.

NEW DELHI;  
*April 13, 2016.*

UDIT RAJ

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PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 117(3)  
OF THE CONSTITUTION

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[Copy of letter No. 16014/01/2016-SCD-II dated 20 February, 2017 from Shri Thaawarchand Gehlot, Minister of Social Justice and Empowerment to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of the Scheduled Castes and Scheduled Tribes Sub Plans (Budgetary Allocation and Special Schemes) Bill, 2017 by Dr. Udit Raj, Member of Parliament, recommends to the House for introduction under article 117(1) and consideration of the Bill under article 117(3) of the Constitution.

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#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a separate budgetary allocation by the Central Government for the welfare and development of the persons belonging to the Scheduled Castes and the Scheduled Tribes. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to estimate the expenditure likely to be incurred.

No non-recurring expenditure is likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 98 OF 2017

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Omission of  
section 124A.

2. Section 124A of the Indian Penal Code, 1860 shall be omitted.

45 of 1860.

## STATEMENT OF OBJECTS AND REASONS

Section 124A of Indian Penal Code, 1860, more popularly known as the sedition law, has for long been in the period of obsolescence. The scrapping of the law has been long overdue. The law which was framed during the period of British rule in India is no more durable as other laws are available to clamp down the real threat to the nation. Even the Supreme Court has interpreted this section to ensure that it applies only to actions that have a direct and unambiguous connection to violence or public disorder. The sedition law is no more of real use in the democratic framework as it exists in the country. The democratic principles are more mature in handling the criticism against it. The democratic principles stand for free speech which is the essence of any democracy and use the sedition law to suppress the freedom of speech is in itself is not right.

The Bill, therefore, seeks to omit section 124A of the Indian Penal Code, 1860.

Hence this Bill.

NEW DELHI;  
*July 5, 2016.*

P. KARUNAKARAN

## BILL NO. 99 OF 2017

*A Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 5. **2.** In section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, after sub-section (2), the following proviso shall be added at the end, namely:—

"Provided that whenever any provision is given prospective or retrospective effect, the interests of the existing subscribers of the scheme shall not be prejudicially affected."

19 of 1952.

## STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 empowers the Central Government to give retrospective as well as prospective effect to any provisions of the Employees' Provident Fund Scheme framed by it. However, it does not provide any safeguard against any negative impact of retrospective changes in the provisions on the existing subscribers. It is, therefore, necessary to amend the parent Act with a view to ensure that the interests of the existing subscribers are not prejudicially affected, particularly when any scheme is implemented with retrospective effect.

Hence this Bill.

NEW DELHI;  
*July 5, 2016.*

P. KARUNAKARAN

## BILL NO. 97 OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2017.

Amendment  
of article  
51A.

**2.** In article 51A, in clause (f), for the words 'value and preserve', the words 'value, preserve and propagate' shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

India is one of the most diverse and culturally rich nations of the world. The richness in culture is contributed by the diversity in languages, religions, dance forms, music, architecture, food, customs and traditions, etc. The fundamental duty of every citizen enshrined in article 51(f) to value and preserve the rich heritage of our composite culture. The valuing and preservation of cultural heritage is best served by the propagation of the cultural heritage within as well as outside the country. In the process, the citizens would not only know more about country's cultural heritage but also value it even more. Therefore, propagation of rich heritage of our composite culture should also be the duty of every citizen.

The Bill, therefore, proposes to amend the article 51A of the Constitution with a view to make propagation of rich heritage of our composite culture as one of the fundamental duties of the citizens.

Hence this Bill.

NEW DELHI;  
*July 5, 2016.*

P. KARUNAKARAN

## BILL No. 110 OF 2017

*A Bill further to amend the Delhi Metro Railway (Operation and Maintenance) Act, 2002.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Delhi Metro Railway (Operation and Maintenance) Amendment Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Insertion of new section 63A. **2.** After section 63 of the Delhi Metro Railway (Operation and Maintenance) Act, 2002, the following section shall be inserted, namely:—

60 of 2002.

Penalty for travelling by sitting on the floor of a train.

"63A. If any passenger travels by sitting on the floor of the train after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, and shall also be liable to be removed from the train by any metro railway official authorised by the metro railway administration in this behalf."

## STATEMENT OF OBJECTS AND REASONS

The growing incidents of people travelling in Metro trains especially in Delhi Metro by sitting on the floor of the train despite repeated announcements have been causing severe problems for co-passengers. They not only block the passage between two bogies of the train but, during the peak hours, also cause congestion and difficulty for co-passengers to find a space for standing in coach. Therefore, it is necessary to provide immediate remedy for this growing menace. Accordingly, it is proposed that sitting on floor while travelling be made punishable offence so that this menace can be tackled more effectively before it becomes a bigger problem.

The Bill, therefore, seeks to amend the parent Act with a view to provide that if any passenger travels by sitting on the floor of the train after being warned by any metro railway official to desist, he shall be punished with imprisonment for a term which may extend upto one month, or with fine which may extend upto five hundred rupees, or with both, and such passenger shall also be liable to be removed from the train.

Hence this Bill.

NEW DELHI;  
*July 5, 2016.*

P. KARUNAKARAN

## BILL NO. 253 OF 2017

*A Bill to create awareness amongst masses to prevent cervical cancer amongst girls, provide for compulsory vaccination against cervical cancer and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Cervical Cancer (Awareness and Compulsory Vaccination) Act, 2016.

(2) It extends to the Union territories only.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "cervical cancer" means a disease caused by sexually acquired infection with Human Papillomavirus (HPV) in women;

(b) "local authority" includes a municipal committee, corporation or council, by whatever name called, district board, cantonment board or any authority for the time being entrusted by law with the control and administration of any matter within a specified local area;

(c) "prescribed" means prescribed rules under this Act; and

(d) "vaccination" for the purpose of this Act means the injection of Human Papillomavirus (HPV) vaccine and includes preventive healthcare for the administration of such vaccines to cure cervical cancer.

**3.** The Central Government shall provide free vaccination to every girl child between the age of nine and fourteen years in such manner as may be prescribed.

Central Government to provide free vaccination.

**4.** The Central Government shall take such steps, as may be necessary, for creating awareness through means of mass media and by organising seminars, amongst masses regarding the preventive healthcare treatment for cervical cancer.

Central Government to create awareness.

**5.** Every local authority shall be responsible for implementation of the provisions of this Act.

Local Authority to implement the provisions of this Act.

**6.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to such State Governments which offers to implement similar schemes in their respective States.

Central Government to provide adequate funds.

**7. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both the houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

## STATEMENT OF OBJECTS AND REASONS

Cervical cancer is the fourth most frequent cancer occurring in women. It is the only cancer that is curable. It is also the number one reason for causing deaths of women in India. This form of cancer is curable by preventive treatment, vaccination and also afterwards in the form of medication. The appalling facts are that ninety-nine per cent. of the women don't even know the advent of the cervix which leads to their death. Over one hundred countries have gained immunisation against cervical cancer in the form of preventive care.

The high mortality rate from cervical cancer can be tackled by administering vaccinations and effective prevention healthcare treatment.

Hence this Bill.

NEW DELHI;  
*July 6, 2016.*

MAHEISH GIRRI

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Central Government shall provide free vaccination to every girl child between the age of nine to fourteen years. Clause 4 provides that Central Government shall create awareness amongst masses regarding preventive healthcare treatment of cervical cancer. Clause 6 provides that Central Government shall provide adequate funds to the State Governments for implementing similar schemes in the States. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore per annum will be involved as recurring expenditure from the Consolidated Fund of India. A non-recurring expenditure of rupees five hundred crore will also be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

## BILL NO. 26 OF 2017

*A Bill further to amend the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 31 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013,—

Amendment  
of section 31.

(i) In sub-section (1) —

(a) in clause (b), for the words “enquire into complaints”, the words “investigate into complaints” shall be substituted; and

(b) after clause (d), the following clause shall be inserted, namely:—

“(e) to impose fine on a person, if found guilty, after investigation under clause (b), of contravening the provisions of this Act.”

(ii) for sub-section (2), the following sub-section (1), the following sub-section shall be substituted, namely:—

“(2) In the discharge of its functions under sub-section (1), the National Commission shall have the power to —

(a) call for information with respect to any matter specified in that sub-section from any Government or local or other authority; and

(b) summon and enforce the attendance of any person from any part of India and examine him on oath”.

## STATEMENT OF OBJECTS AND REASONS

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 was enacted to prohibit employment as manual scavengers, rehabilitation of manual scavengers and their families. The National Commission for Safai Karamcharis is empowered to monitor and enquire the complaints regarding the contravention of the Provisions of this Act, but no one has been punished even if accused is found guilty by the Commission due to inherent lacuna in the Act. It is, therefore, necessary that the National Commission for Safai Karamcharis be empowered to summon the accused, investigate into the complaints, and impose fine on the accused, if found guilty on completion of investigation in the matter.

Hence this Bill.

NEW DELHI;  
*July* 8, 2016.

UDIT RAJ

## BILL NO. 93 OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In the Seventh Schedule to the Constitution,—

Amendment  
of the Seventh  
Schedule.

(i) in List II-State List, entry 17 shall be omitted;

(ii) in List III-Concurrent List, after entry 6, the following entry shall be inserted namely:—

“6A. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of list I.”.

## STATEMENT OF OBJECTS AND REASONS

Water is a State subject. It is desirable that requisite amount of water is available without any hindrance to drinking and irrigation.

Water resources are sources of water that are useful or potentially useful. Uses of water include agricultural, industrial, household, recreational and environmental activities. The human, animals and all living beings require water. Without water life is impossible.

Around ninety per cent. of the water on the Earth is salty water and only three per cent is fresh water; slightly over two thirds of which is frozen in glaciers and polar ice caps. The remaining unfrozen fresh water is found mainly as groundwater, with only a small fraction present above ground or in the air.

Fresh water is a renewable resource, yet the world's supply of groundwater is steadily decreasing, with depletion occurring most prominently in Asia and North America, although it is still unclear how much natural renewal balances this usage or whether ecosystems are threatened. The framework for allocating water resources to water users (where such a framework exists) is known as water rights.

The Bill seeks to amend the Seventh Schedule to the Constitution with a view to transfer entry 17 of List-II, State List pertaining to 'Water', to List-III, concurrent List so that the Parliament and the Central Government can also play its due role in the field of development of agriculture and sustainable use of water to meet the growing needs of the society.

Hence this Bill.

NEW DELHI;  
*November 18, 2016.*

MEENAKASHILEKHI

## BILL NO. 95 OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 12 of the Constitution, after the words “or other Authorities”, the words “or Institution of Self Government” shall be inserted.

Amendment of  
article 12.

## STATEMENT OF OBJECTS AND REASONS

Part IX to the Constitution with articles 243 to 243(O) dealing with Panchayats and Part IXA with articles 243(P) to 243(ZG) dealing with Municipalities were introduced by the 73rd and 74th Constitutional Amendments respectively.

The above two chapters were introduced without reflecting within article 12 of the original Constitution, the change in the definition of 'the State'.

Earlier Panchayats and Municipalities were classified under 'local authorities' but after the 73rd and 74th Constitutional Amendments came into force, they were established as the Institutions of Self Government under the Constitution.

The definition of Panchayat and Municipality under article 243P establishes these bodies with respective norms as institutions (by whatever name called) of Self Government.

As Institutions of Self Government now, Panchayat and Municipality are no longer local authorities after introduction of Part IX and IXA by way of the 73rd and 74th Amendments in Constitution.

Article 12 has been a part of the Constitution since the original document was framed.

Now, in view of the above, the proposed Constitutional Amendment will include the Panchayats and Municipalities within the meaning of article 12.

Hence, it has become expedient to introduce the words "or Institution of Self Government" in article 12 of the Constitution.

Hence this Bill.

NEW DELHI;  
*November* 18, 2016.

MEENAKASHI LEKHI

## BILL NO. 96 OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In article 51A of the Constitution, after clause (k), the following clause shall be inserted, namely:—

Amendment  
of article  
51A.

“(l) who is eligible to vote, to cast his vote at elections to the House of the people, Legislative Assemblies of States and institutions of local self-Government.”.

## STATEMENT OF OBJECTS AND REASONS

India is the largest democracy in the world. It has a strong parliamentary system. Since 1951, free and fair elections to the Houses of Parliament, State Legislatures and Local bodies have been held at regular intervals. Indian elections are benchmark for many other countries.

At present a candidate is declared as elected even if he secures seventeen per cent. of the votes polled. Though he has won the seat, yet he may not have the support of even half of the electors. In the true sense, he is not representing the majority of voters in the constituency from which he has been elected.

The percentage of votes polled at every elections is very less which shows that people are not willing to participate in the election process. Sometimes in some of the constituencies, as low as thirty per cent. of the total votes are polled. This is not a healthy sign for democracy. Casting a vote at an election is one of the duty of community service mentioned in the Universal Declaration of Human Rights. Introducing an obligation to vote will help in strengthening the democracy and, electing a government with more stability, legitimacy and genuine mandate. Compulsory voting system can confer a high degree of political legitimacy because it results in high voter turnout. High level of participation decreases the risk of political instability.

The compulsory voting is a system in which electors are obliged to cast their votes in elections.

Therefore, it is proposed to make it a fundamental duty of every eligible citizen to cast vote at elections to the House of the people, Legislative Assemblies and Institutions of local self-Government.

Hence this Bill.

NEW DELHI;  
*November 18, 2016.*

MEENAKASHI LEKHI

## BILL NO. 94 OF 2017

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In the Seventh Schedule to the Constitution,—

Amendment  
of the  
Seventh  
Schedule.

(i) in the List II—State List, entry 14 shall be omitted; and

(ii) in the List III—Concurrent List, after entry 6, the following entry shall be inserted, namely:—

“6A. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.”.

## STATEMENT OF OBJECTS AND REASONS

Agriculture has got pivotal role in Indian economy. Though the share of agriculture in national income is declining, it still has a substantial share in Gross Domestic Production. Agriculture is the mainstay of livelihood in rural areas. As nearly as 65 per cent. to 70 per cent. of our total population is engaged in agriculture related activities. Agriculture sector can be revitalised by concerted efforts to be made by the State Governments as well as the Union Government. However, role of the Union Government is negligible in the development of agriculture sector for the reason that Agriculture has been listed in the State List and is considered as the primary responsibility of the State Government.

The Bill seeks to amend the Seventh Schedule to the Constitution with a view to transfer entry 14 of List-II (State List) pertaining to 'Agriculture', to List-III (concurrent List) so that the Parliament and Central Government can also play its due role in the field of development of agriculture and sustainable use of water to meet the growing needs of the society.

Hence this Bill.

NEW DELHI;  
*November 18, 2016.*

MEENAKASHI LEKHI

## BILL NO. 102 OF 2017

*A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2017. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

35 of 2009.

2. For section 27 of the Right of Children to Free and Compulsory Education Act, 2009, the following section shall be substituted, namely:— Substitution of new section for section 27.

"27. No teacher shall be deployed for any non-educational purposes other than the disaster relief duties." Prohibition of deployment of teachers for non-educational purposes.

## STATEMENT OF OBJECTS AND REASONS

Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 states that "no teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be". This results in teachers having extra burden of work resulting in poor teaching practices by them in schools. Our country already suffers from large number of vacant teacher posts and these additional responsibilities add to work load of school teachers in Government run schools.

To enhance the quality of education, it is imperative to focus on every little aspect connected therein. By involving teachers in other activities apart from educational purpose such as elections and collecting census data results into more mental stress and hence lead to inefficient performance by them in schools. Only focussing on teacher training programs alone would not suffice if they will be given additional responsibilities like collecting door to door census data.

The Bill, therefore, seeks to amend the Right of Children to Free and Compulsory Education Act, 2009 with a view to relieve teachers from getting deployed for any non-educational purpose except disaster relief duties.

Hence this Bill.

NEW DELHI:  
*November 21, 2016.*

MAHEISH GIRRI

## BILL NO.85 OF 2017

*A Bill to provide for the constitution of a Board for regulation of private hostels and paying guest accommodation centres and for matter connected therewith.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1 . (1) This Act may be called the Regulation of Private Hostels and Paying Guest Accommodation Centres Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commence-  
ment.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(1) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(2) “Board” means the Private Hostels and Paying Guest Accommodation Centres Regulatory Board constituted under section 3;

(3) “paying guest” means—

(a) a student staying in a private hostel or paying guest accommodation centre and enrolled,—

(i) in a course in an institute recognized by the University Grants Commission; or

(ii) in a pre-examination coaching centre for admission into any medical, engineering or any other professional course or for securing Government or private job through written or oral examination conducted by any agency of the Government or a private establishment; or

(b) a working professional, either government or private, who is allowed to use a part of a residential premises, either individually or jointly, by its owner or occupier for a certain period of time, on a payment basis;

(4) “prescribed” means prescribed by rules made under this Act; and

(5) “private hostel” means a residential premise or centre set up by any household, private entity or individual to accommodate paying guest on rental basis for a fixed duration.

Constitution  
of Private  
Hostels and  
Paying Guest  
Accommodation  
Centres  
Regulatory  
Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Private Hostels and Paying Guest Accommodation Centres Regulatory Board for the purpose of regulating the operation of private hostels and paying guest accommodation centres.

(2) The Board shall consist of a Chairperson and such other members to be appointed by the Central Government in such manner as may be prescribed.

(3) The Board shall have its headquarter in New Delhi and office in every State and Union territory.

(4) The Central Government shall appoint such number of officers and employees as it considers necessary for the efficient functioning of the Board.

(5) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, members, officers and employees of the Board shall be such as may be prescribed.

Functions of  
the Board.

4. (1) The Board shall—

(a) carry out detailed survey of all the private hostels and paying guest accommodation centres currently operational in the country;

(b) frame mandatory minimum criteria of operations and basic services to be provided by private hostels and paying guest accommodation centres;

(c) in consultation with the State Governments, and taking into consideration the social and economic conditions of the State concerned, frame mode rules and regulations for operation of private hostels and paying guest accommodation centres; and

(d) undertake any other function as it may deem necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of provisions contained in sub-section (1), the model rules and regulations for private hostels and paying guest accommodation centres may include—

- (a) types of accommodation to be provided, either shared accommodation, single room or common hall;
- (b) limit on the number of occupants per room in case of shared accommodation;
- (c) minimum number of rooms, minimum size of each room and a minimum threshold area per paying guest in case of shared accommodation;
- (d) provision of separate accommodation facilities for male and female paying guests;
- (e) provision of basic facilities such as water, electricity, cupboard, bed, kitchen and security provisions such as Closed Circuit Television (CCTV) cameras, especially for the safety of female paying guests;
- (f) minimum number of supporting staff for each private hostel and paying guest accommodation centre;
- (g) fixing of responsibility of owners and management of private hostels and paying guest accommodation centers for safety and security of paying guests and liability in case of any accident or incident taking place at such private hostel or paying guest accommodation center;
- (h) verification of paying guest;
- (i) provision of First Aid (Medical), fire safety and other emergency services at private hostels and paying guest accommodation centers;
- (j) mechanism for monitoring and vigilance for private hostels and paying guest accommodation centers;
- (k) establishment of Grievance Redressal Mechanism for paying guests; and
- (l) provision of penalty to owners of private hostels and paying guest accommodation centres for non-compliance of any of the model rules or regulations.

5. Every private hostel and paying guest accommodation centre shall be registered with the appropriate Government in such manner as may be prescribed.

Registration of Private Hostels and Paying Guest Accommodation Centres.

6. (1) The appropriate Government may, by notification in the Official Gazette, make rules of carrying out purpose of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

## STATEMENT OF OBJECTS AND REASONS

Our country has witnessed large migration from rural parts of the country to urban cities. Students and working professionals who migrate from small towns and rural areas of the country to pursue higher educational or prepare for entrance examinations of various professional and educational courses or recruitment examinations, face a very basic but critical problem of finding adequate living space for themselves. Such people have two choices either to live in rented flats or look for hostel or paying guest accommodation. Latter option being more economically viable, a very high percentage of students and working professionals especially women opt for private hostels or paying guest accommodation. Henceforth, in last decade or so, this problem of accommodation has been exploited very well by the large number of private entities and individuals by setting up private hostels and paying guest accommodation centers for these students and working-professionals. But most of these centers fail to provide basic minimum services and proper living conditions to the occupants. This sector is also highly unregulated in our country, which has led to non-compliance and poor services and is purely being treated for business purpose to gain maximum profit. In most of the cases, occupants are forced to live in congested rooms with many sharing a single room. Food in their mess has hardly any quality control mechanism and the owners prefer to buy low quality grains and vegetables to save money. Poor infrastructure of private hostels and private accommodation does not guarantee safety of girls and we have come across many incidents in the recent past, where security was a major concern that led to unsavory incidents.

This Bill seeks to provide for basic regulatory mechanism to safeguard basic interests of the students and working professionals, especially females, to provide them with basic living conditions and regulate the business of private hostels and paying guest accommodation centres.

Hence this Bill.

NEW DELHI;  
*November 21, 2016.*

MAHEISH GIRRI

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Central Government shall constitute the Private Hostels and Paying Guest Accommodation Centres Regulatory Board to regulate the operation of private hostels and paying guest accommodation centres in the country. It also provide for appointment of officers and employees to the Board. The Bill, therefore, if enacted, would involve expenditure from Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crore would be involved per annum from Consolidated Fund of India.

A non-recurring expenditure of about five crore rupees is also likely to be incurred.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## THE SCHEDULE

[*See sections 2(c) and 3(1)*]

1. The Islamic Republic of Pakistan.

## BILL NO.104 OF 2017

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2017.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 326A of the Indian Penal Code, 1860, for the first and second provisos, the following proviso shall be substituted, namely:—

Amendment  
of section  
326A.

"Provided that the fine imposed under this section shall not be less than rupees ten lakh, which shall be paid to the victim, and such fine shall be in addition to the amount of fine required to meet the total medical expenses of the treatment of the victim."

## STATEMENT OF OBJECTS AND REASONS

The Criminal Law (Amendment) Bill was passed by the Government in the year 2013. One of the purpose of this amendment was to amend section 326A of the Indian Penal Code (IPC). But the provision for fine was not specifically mentioned in this section.

The acid attacks permanently disfigure the body of the victim and also creates severe physical and psychological impact on them, the effects of which are lifelong. Some attack have also resulted in slow and painful deaths. The National Commission for Women had proposed a Bill "Prevention of Offences (by Acids) Act" in 2008, which had asked for specific provisions for compensation to the victims of acid attacks. Since treatment required for recovery of these victims are extremely costly and not all families of the victims can afford it, therefore, the compensation should be appropriate to the physical and mental agony that the victim suffer. These recuperative surgeries have different stages to recover the face of the person and the operations too cost the victim lakhs of rupees. The victim also go through significant trauma, both physical as well as psychological. Hence their rehabilitation is extremely challenging, especially without adequate financial support.

The physical as well as emotional damage caused to the victim cannot be compensated entirely with any amount of money. As the incident leaves permanent marks on the body and also no surgery can completely bring back original face and other parts of the body, but, adequate amount of compensation can at least help them to bring themselves back to the regular routine of life. Furthermore, strict provision for fine would act as a strong deterrent and it may prevent such incidents in future.

The Bill, therefore, seeks to amend the Indian Penal Code, 1860 with a view to provide for compensation of minimum rupees ten lakhs in addition to the expenses of medical treatment of the victims.

Hence this Bill.

NEW DELHI;  
*November 21, 2016.*

MAHEISH GIRRI

## BILL No.103 OF 2017

*A Bill to provide for the protective measures with need based rehabilitation and welfare to be undertaken by the Government for the distressed, infirm, neglected, abandoned and disowned widows and single women by providing financial assistance, pension, medical care, housing and other facilities through a Welfare Board to such widows and single women and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Distressed Widows and Single Women (Protection, Rehabilitation and Welfare) Act, 2017.

Short title and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) “abandoned and disowned widow” means a widow who has been deserted or thrown out of household by her relatives to fend for herself and who has no means to support her and her dependent children, if any;

(b) “appropriate Government” means in the case of a State the Government of that State and in all other cases, the Central Government;

(c) “Board” means the Distressed Widows and Single Women Welfare Board established under section 3;

(d) “distressed” in relation to a widow and single woman means any widow or single woman who lives uncared for and has become infirm due to old age or chronic or incurable disease, physical deformity or mental imbalance and who has no independent and adequate means of livelihood for her and her dependent children, if any;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “single woman” means a female adult who is either unmarried or divorcee or judicially separated from her spouse; and

(g) “widow” means a legally married women whose husband has died.

Establishment  
of the  
Distressed  
Widows and  
Single Women  
Welfare Board.

3. (1) The Central Government, shall, as soon as may be, but not later than six months from the commencement of this Act, by notification in the Official Gazette, establish a Board to be known as the Distressed Widows and Single Women Welfare Board for carrying out the purposes of this Act.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Board shall be at Aurangabad in the State of Maharashtra and the Board shall establish its branches in all other States and Union territories at conspicuous places as the Board may deem fit and necessary.

(4) The Board shall consist of—

(a) the Union Minister of Women and Child Development who shall be the chairperson *ex-officio*;

(b) a Deputy Chairperson, preferably a woman with such qualifications and experience, as may be prescribed, to be appointed by the Central Government;

(c) one member representing single women with such qualification, as may be prescribed, to be appointed by the Central Government;

(d) five women Members of Parliament of whom three shall be from the House of the People and two from the Council of States, to be nominated by the respective Presiding Officers of each House;

(e) five members representing Union Ministries of Home Affairs, Human Resource Development, Health and Family Welfare, Finance and Social Justice and Empowerment;

(f) not more than four members to be appointed by the Central Government in consultation with the Governments of the States, by rotation in alphabetical order, to represent the Governments of the States;

(g) three members to be appointed by the Central Government from amongst the registered non-Governmental Organisations (NGOs) working for the welfare of distressed widows or single women, as the case may be.

(5) The salary and allowances payable to, and other terms and conditions of the Deputy Chairperson and members of the Board shall be such as may be prescribed.

(6) The Board shall follow such procedure for holding its meetings and the quorum for such meetings shall be such, as may be prescribed.

(7) The Board shall have a Secretariat consisting of a Member Secretary and such number of officers, and employees may be prescribed.

(8) The salary and allowances payable to, and other terms and conditions of service of Member Secretary, officers and employees shall be such as may be prescribed.

**4. (1)** Notwithstanding anything contrary contained in any other law for the time being in force, the Board shall promote and implement such protective and welfare measures as it thinks appropriate, expedient, and necessary including rehabilitation for the distressed widows and single women who are in dire need of such measures.

Functions of  
the Board.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall,—

(a) maintain district-wise register of the abandoned, disowned and distressed widows and single women covered under this Act who are to be rehabilitated and are in need of assistance from the Board with such particulars and details and in such manner as may be prescribed;

(b) collect and get verified the antecedents of every widow and single woman covered under this Act to assess her need for assistance in such manner as may be prescribed;

(c) work out plans and formulate schemes for the overall welfare and rehabilitation of abandoned, disowned or distressed widows and single women covered under this Act and implement them in right earnest;

(d) conduct a special survey of the abandoned and disowned widows subsisting on alms as beggar or chanting bhajans in the temples of Mathura, Vrindavan and other parts of the State Uttar Pradesh and other parts of the country or who are languishing in temples as Devdasis in various parts of the country and formulate appropriate rehabilitation and reuniting with their families programmes for such widows and single women in such manner as may be prescribed;

(e) give wide publicity through electronic and print media about the welfare and rehabilitation measures being undertaken by the Board to enable the widows and single women covered under this Act to avail them; and

(f) perform such other functions not inconsistent with the provisions of this Act, as may be assigned to it by the appropriate Government from time to time.

**5. (1)** The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the National Distressed Widows and Single Women Rehabilitation and Welfare Fund with an initial corpus of rupees fifty thousand crore for carrying out the purposes of this Act.

Constitution  
of National  
Distressed  
Widows and  
Single women  
Rehabilitation  
and Welfare  
Fund.

(2) The Fund shall be administered by the Board in such manner as may be prescribed.

(3) The Fund established under sub-section (1) shall consist of all receipts from—

(a) the Central Government and Governments of the States and Union territories and their institutions and organisations;

(b) body corporates, both public and private sector and Banks and financial institutions both domestic and foreign; and

(c) individuals, associations and others in the form of contributions or donations.

**6. (1)** On the recommendation of the Board or otherwise, the appropriate Government shall provide the widows and single women covered under this Act, the following facilities, namely:—

Facilities to  
be provided  
by the  
appropriate  
Government.

(a) monthly subsistence allowance of not less than five thousand rupees if the widow or the single women, as the case may be, is having any dependent children and not less than three thousand rupees in case she has no dependent children to support;

(b) residential accommodation free of cost wherever necessary;

(c) free medical care with medicines and with indoor and outdoor facilities as may be required;

(d) free education to the dependent children including higher, medical, engineering and education in such manner as may be prescribed;

(e) gainful employment as per the physical condition after imparting vocational training wherever possible;

(f) financial assistance for rehabilitation like self employment wherever required;

(g) free legal aid in case the widow or single women, as the case may be, has been thrown out or abandoned by her kith and kin; and

(h) such other facilities, as may be necessary for the rehabilitation, welfare, proper development, regaining her lost status in the family and for maintaining a respectable life in the society:

Provided that if, a widow or single woman, as the case may be, covered under this Act either gets married, remarried, gainfully employed or taken back by her kith and kin in the family, the facilities being provided to her shall be withdrawn by the appropriate Government.

(2) The costs incurred by the appropriate Government on providing the facilities under this Act to the widows and single women covered under this Act shall be defrayed from the Rehabilitation and Welfare Fund established under section 5.

Protective provisions.

**7.** Notwithstanding anything contained in any other law, for the time being in force or in any custom prevalent any widow or single woman covered under this Act shall,—

(a) not be evicted or thrown out of the house of the in-laws or parents, as the case may be or where such widow or single woman was last residing;

(b) be entitled to inherit the property or her share of jointly owned property from her in-laws or parents, as the case may be; or

(c) be entitled for maintenance from her in-laws or kith or kin who neglect or abandon the widow or single woman, as the case may be.

Establishment of hostels.

**8. (1)** The appropriate Government shall establish such number of hostels at conspicuous places in various parts of its territorial jurisdiction as it may deem necessary for boarding and lodging of abandoned and disowned and distressed widows and single women covered under this Act with necessary facilities of daily life as may be prescribed.

(2) The appropriate Government shall also provide necessary free medical aid and medicines and means of entertainment for the residents of the hostels established under sub-section (1).

Central Government to provide requisite funds. Annual report to the Board.

**9.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide the requisite funds to the State Government, Union territories and the Board from time to time for carrying out the purposes of this Act.

**10.** The Board shall prepare an Annual Report in such form and in such manner, as may be prescribed, of its activities in implementing the provisions of this Act and submit it to the President of India who shall cause the report to be laid before both the the Houses of Parliament along with action taken thereon by the Central Government as soon as it is received.

Power to remove difficulty.

**11.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after expiry of a period of three years from the date of commencement of this Act.

**12.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**13.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the widows and single women covered under this Act.

Act to supplement other laws.

**14. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that they should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

## STATEMENT OF OBJECTS AND REASONS

In our country, world's second most populous nation, there are millions of unfortunate and hapless women who lose their husbands during their lifetime and become widows. Their number is nearly three per cent of the total population of our Nation and more than fifty per cent of these widows are old, infirm suffering from various diseases, physical deformity or mental imbalance particularly belonging to poor and middle class families who live uncared for and neglected by their near and dear ones and most of them are without independent and adequate means of livelihood and roof over their heads. It is very common that when a widow does not have any permanent source of income or livelihood she is driven out of her in-laws home or even from her parental home. Her position becomes more miserable if she has dependent children to support and bring up. Sometimes the condition of such widows become miserable and their problems increase manifold due to poverty and other compelling reasons where they have no other option but to go for begging for survival and many such widows can be seen begging in the streets and public places. Several women who become widows in their youth, in particular in rural and far off areas, are not only sexually exploited by their known ones and many a times forced into prostitution. At some places they are branded as witches and tortured even by their own kith and kin or others from the community. In our society even today they are treated as bad women and are not allowed to attend or appear during auspicious occasions. Many of such widows work as housemaids and take up other jobs for survival. Large number of abandoned and disowned widows seek refuge in the temples of Mathura, Vrindavan in Uttar Pradesh and other parts of the country where they chant bhajans or beg for their survival. Even devadasi system is still prevalent in some parts of the country. Where hapless old and infirm devadasis languish in the temples. Many widows take shelter in old age homes but their number is lawfully very short. Then there are quite a large number of single women in our country. Some of them opt for not to marry because they have to support their families for various reasons such as to educate their siblings or for supporting families as there are no male bread earners or for the treatment of ailing parents etc. etc. It is very common that such women are deserted by their siblings once they get their education and settle in their lives. Since they spend their earnings on others, they become penniless in their old age, particularly if they were employed in private sector. Then there are those single women who are either deserted by their husbands or who are legally separated or divorced from their spouses. Many of them become distressed and their miseries increase when they have dependent children to support and bring up. They too need protective umbrella.

Ours is a welfare State. It is the sacred duty of the State to initiate protective and welfare measures for the abandoned, disowned and distressed widows and single women so that they can live gracefully in the society. It is therefore imperative to establish an authority to exclusively take care of such widows and single women throughout the country.

Hence, this Bill.

NEW DELHI;  
January 11, 2017

NISHIKANT DUBEY

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Distressed Widows and Single Women Welfare Board. Clause 5 provides for the establishment of National Distressed widows and Single Women Rehabilitation and Welfare Fund with initial corpus of rupee fifty thousand crore to be provided by the Central Government. Clause 6 provides for financial assistance and other facilities for widows and single women. Clause 8 provides for establishment of hostels. Clause 9 makes it mandatory for the Central Government to provide requisite and adequate funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. Apart from the initial corpus of rupee fifty thousand crore, it is estimated that a sum of rupee forty thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupee twenty five thousand crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## BILL NO.108 OF 2017

*A Bill further to amend the Protection of Children from Sexual Offences Act, 2012.*

BE it enacted by Parliament in the Sixty-Eighth Year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Protection of Children from Sexual Offences (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Omission of  
Section 19.

2. In the Protection of Children from Sexual Offences Act, 2012, Section 19 shall be omitted.

No. 32 of  
2012.

## STATEMENT OF OBJECTS AND REASONS

Section 19 of the Protection of Children from Sexual Offences Act, 2012 compels even Court Judges, hearing a divorce case or in marriage discord cases to provide information to police authorities or otherwise face penal punishment under section 21 of the said Act. This places an unacceptable onus on the public and public Judicial persons on their mere apprehension of a possible offence being committed.

Hence this Bill.

NEW DELHI;  
*January 11, 2017.*

NISHIKANT DUBEY

## BILL NO.109 OF 2017

*A Bill further to amend the Representation of the People Act, 1950.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 14.

2. In section 14 of Representation of the People Act, 1950, for clause (b), the following clause shall be substituted, namely:—

43 of 1950

"(b) "qualifying date" in relation to preparation or revision of every electoral roll under this part, shall be the date on which a citizen applies for inclusion of his name in the electoral roll for the first time after attaining eighteen years of age."

## STATEMENT OF OBJECTS AND REASONS

Article 326 of the Constitution stipulates that elections to the Lok Sabha and State Assemblies will be on the basis of adult suffrage i.e. every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature, shall be entitled to be registered as a voter at any such election.

Clause (b) of section 14 of the Representation of the People Act, 1950 stipulates that the "qualifying date" in relation to the preparation or revision of every electoral roll means the 1st day of January of the year in which it is so prepared or revised.

A combined reading of the above two provisions leads to a situation wherein, barring those who were born on 1st January, the rest of the youth have to wait till the 1st January of the year following the year in which he or she was born for getting included in the electoral roll.

This anomaly virtually deprives a substantial proportion of the younger population of its right to exercise their franchise in the year in which he or she completes eighteen years of age. This anomaly needs to be addressed.

The Bill, therefore, seeks to amend the Representation of the People Act, 1950 with a view to provide that "qualifying date" in relation to the preparation or revision of every electoral roll shall be the actual date of birth in respect of the citizens whose name are included for the first time in the electoral roll on completion of eighteen years of age.

Hence, this Bill.

NEW DELHI;  
*January 11, 2017.*

NISHIKANT DUBEY

## BILL NO.77 OF 2017

*A Bill to provide for the establishment of a permanent Bench of the High Court of Bombay at Hingoli.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court of Bombay (Establishment of a Permanent Bench at Hingoli) Act, 2017.

Establishment  
of a  
permanent  
Bench of  
High Court of  
Bombay at  
Hingoli.

2. There shall be established a permanent Bench of the High Court of Bombay at Hingoli and such Judges of the High Court of Bombay, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Hingoli in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Hingoli, Nanded and Parbhani.

## STATEMENT OF OBJECTS AND REASONS

The High Court of Bombay for the State of Maharashtra is located in Mumbai with two Benches at Aurangabad and Nagpur. The residents of Hingoli, Nanded and Parbhani districts have to travel long distances in order to access the Bombay High Court Bench at Aurangabad. These districts are in an interior backward region, which is dependent on agriculture, with a large tribal and minority population. The incidents of farmer suicides are prevalent in this region. These districts have a population of over sixty lakh which is about six per cent. of Maharashtra's population and around 75% of these people live in rural areas. The people do not have the extra capital and time in order to access justice far away located at High Court. A huge number of cases are pending in Bombay High Court and delay in disposal of cases leads to hardship for the people. Easier access to High Court will help bring down the cost and time of litigation and provide justice to the residents of this backward region.

Hence there is an urgent need to establish a permanent Bench of the Bombay High Court at Hingoli, which will bring relief to the people of Hingoli, Nanded and Parbhani districts.

Hence this Bill.

NEW DELHI;  
March 11, 2017.

RAJEEV SATAV

## BILL NO.90 OF 2017

*A Bill to regulate the employment of men in certain establishments for certain periods before and after becoming a father and to provide for paternity benefit and certain other benefits.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Paternity Benefit Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Application of  
Act.

**2.** It applies, in the first instance,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:

Provided that the State Government may, with the approval of the Central Government, after giving not less than one month's notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise;

(c) to every men who is self-employed or working in the unorganised sector or in establishments where less than ten persons are employed.

**3.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means, in relation to an establishment being a mine, or an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, the Central Government and in relation to any other establishment, the State Government;

(b) "child includes a still-born child;

(c) "commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

(d) "delivery" means the birth of a child;

(e) "employer" means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

(f) "establishment" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(v) a shop or establishment; or

(vi) an establishment to which the provisions of this Act have been declared under section 2 to be applicable;

(g) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948.

(h) "Inspector" means an Inspector appointed under section 12;

(i) "man" means a man,—

(1) employed, whether directly or through any agency, for wages in any establishment;

(2) self-employed or working in the unorganised sector or in establishments where less than ten persons are employed; and

(j) "mine" means a mine as defined in clause (i) of section 2 of the Mines Act, 1952; 35 of 1952.

(k) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth weeks of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code, 1860; 45 of 1860.

(l) "paternity benefit" means the payment referred to in section 4;

(m) "plantation" means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951; 69 of 1951.

(n) "prescribed" means prescribed by rules made under this Act;

(o) "State Government", in relation to a Union territory, means the Administrator thereof;

(p) "wages" means all remuneration paid or payable in cash to a man, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (Including dearness allowance and house rent allowance) as a man is for the time being entitled to;

(2) incentive bonus; and

(3) the money value of the concessional supply of foodgrains and other articles, but does not include—

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the man under any law for the time being in force; and

(iv) any gratuity payable on the termination of service; and

(q) "women" means a woman who is expecting or has become a mother.

Right to  
payment of  
paternity  
benefit.

4. (1) Subject to the provisions of this Act, every man shall be entitled to, and his employer shall be liable for, the payment of paternity benefit at the rate of the average daily wage for the period of his actual absence, that is to say, the period immediately preceding the day of delivery of child to his legally wedded wife, or commissioning mother the actual day of delivery of child to his legally wedded wife, or commissioning mother and any period immediately following that day.

*Explanation.*— For the purpose of this sub-section, the average daily wage means the average of the man's wages payable to him for the days on which he has worked during the period of three calendar months immediately preceding the date from which he absents himself on account of paternity, the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948 or ten rupees, whichever is the highest. 11 of 1948.

(2) No man shall be entitled to paternity benefit unless he has actually worked in an establishment of the employer from whom he claims paternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the expected date of delivery of child to his legally wedded wife or commissioning mother:

Provided that the qualifying period of eighty days aforesaid shall not apply to a man who has immigrated into the State of Assam and whose wife was pregnant at the time of the immigration.

*Explanation.*—For the purpose of calculating under this sub-section the days on which a man has actually worked in the establishment, the days for which he has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages during the period of twelve months immediately preceding the expected date of delivery of the child shall be taken into account.

(3) The maximum period for which any man with less than two surviving children shall be entitled to paternity benefit shall be fifteen days of which not more than seven days shall precede the date of expected delivery:

Provided that paternity benefit shall be availed up to three months from the date of delivery of child:

Provided further that where a man dies during this period, the paternity benefit shall be payable only for the days up to and including the day of his death:

Provided also that where a man dies during the period immediately following the date of delivery of his child for which he is entitled for the paternity benefit, leaving behind the child, the employer shall be liable for the paternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

(4) Subject to provisions of this Act, every man who legally adopts a child below the age of three months or the legal husband of the commissioning mother, shall be entitled to paternity benefit for a period of fifteen days from the date the child is handed over to the adopting father or legal husband of the commissioning mother, as the case may be.

(5) Notwithstanding anything contained in this Act, where the nature of work assigned to a man is of such nature that he may work from home, the employer may allow him to do so after availing of the paternity benefit for such period and on such conditions as the employer and the man may mutually agree.

5. (1) The Central Government shall formulate a scheme to be known as the Parental benefit Scheme for providing paternity benefit to every man.

Parental  
Benefit  
Scheme.

(2) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Parental Benefit Scheme Fund for carrying out the purposes of this Act.

(3) All employees (Irrespective of gender), employees and the Central Government shall contribute to the Fund in such ratio as may be prescribed.

(4) The Fund shall be utilised to meet the costs related to paternity benefit under this Act.

(5) The Central Government shall, in consultation with the State Governments, the employee and the employer unions/associations, by notification in the Official Gazette, issue guidelines for implementation of Parental Benefit Scheme.

6. (1) Any man entitled to paternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to his employer, stating that his paternity benefit and any other amount to which he may be entitled under this Act may be paid to him or to such person as he may nominate in the notice and that he will not work in any establishment during the period for which he receives paternity benefit.

Notice of  
claim for  
paternity  
benefit and  
payment  
thereof.

(2) In the case of a man whose legally wedded wife is pregnant, such notice shall state the date from which he shall be absent from work, not being a date earlier than seven days from the date of expected delivery.

(3) Any man who has not given the notice before leave may give such notice as soon as possible after the delivery of child to his legally wedded wife.

(4) On receipt of the notice, the employer or local authority shall permit such man to absent himself from the establishment during the period for which he receives the paternity benefit.

(5) The amount of paternity benefit for the period preceding the date of expected delivery of child to the wife of a man shall be paid in advance by the employer to the man on production of such proof as may be prescribed that his wife is expecting a child, and the amount due for the subsequent period shall be paid by the employer to the man within forty-eight hours of production of such proof as may be prescribed that the man has become a father.

(6) The failure to give notice under this section shall not disentitle a man to paternity benefit or any other amount under this Act if he is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the man, order the payment of such benefit or amount within such period as may be specified in the order.

Payment of  
paternity  
benefit in case  
of death of a  
man.

**7.** If a man entitled to paternity benefit or any other amount under this Act, dies before receiving such paternity benefit or amount, or where the employer is liable for paternity benefit under the second proviso to sub-section (3) of section 4, the employer shall pay such benefit or amount to the person nominated by the man in the notice given under section 6 and in case there is no such nominee, to his legal representative.

Leave for  
miscarriage.

**8.** In case of miscarriage of his wife, a man shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of paternity benefit, for a period of seven days immediately following the day of the miscarriage.

Creche  
facility.

**9. (1)** Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the creche by the man:

Provided further that the creche shall have trained staff for taking care of the children.

(2) The appropriate Government shall issue guidelines for the establishment, operation and maintenance of creche established under sub-section (1).

Duty of  
establishment.

**10.** Every establishment shall inform in writing and electronically to every man at the time of his initial appointment regarding facilities and benefits available under this Act.

Dismissal  
during  
absence.

**11. (1)** When a man absents himself from work in accordance with the provisions of this Act, it shall be unlawful for his employer to discharge or dismiss him during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to his disadvantage any of the conditions of his service.

(2) The discharge or dismissal of a man at any time during his paternity leave, if the man but for such discharge or dismissal would have been entitled to paternity benefit, shall not have the effect of depriving him of the paternity benefit:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the man, deprive him of the paternity benefit.

(3) Any man deprived of paternity benefit, or discharged or dismissed during or on account of his absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to him, appeal to such authority as may be prescribed, and the decision of

that authority on such appeal, whether the man should or should not be deprived of paternity benefit or discharged or dismissed shall be final.

(4) Nothing contained in sub-sections (2) and (3) shall affect the provisions contained in sub-section (1).

**12.** The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

Appointment  
of Inspectors.

**13.** An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely:—

Powers and  
duties of  
Inspectors.

(a) enter at all reasonable times with such assistants, if any, being persons in the service of the Government or any local or other public authority, as he or she thinks fit, any premises or place where men are employed or work is given to them in an establishment, for the purposes of examining any registers, records and notices required to be kept or exhibited by or under this Act and require their production for inspection;

(b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;

(c) require the employer to give information regarding the names and addresses of men employed, payments made to them, and applications or notices received from them under this Act; and

(d) take copies of any registers and records or notices or any portions thereof.

45 of 1860.

**14.** Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Inspectors to  
be public  
servants.

**15.** (1) Any man claiming that —

(a) paternity benefit or any other amount to which he is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

Power of  
Inspector to  
direct  
payments to  
be made.

(b) his employer has discharged or dismissed him during or on account of his absence from work in accordance with the provisions of this Act, may make a complaint to the Inspector.

(2) The Inspector may, on his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that —

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) he has been discharged or dismissed during or on account of his absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such person, appeal to the prescribed authority.

(4) The decision of the prescribed authority where an appeal has been referred to it under sub-section (3) or of the Inspector where no such appeal has been referred, shall be final.

(5) Any amount payable under this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.

Forfeiture of paternity benefit.

**16.** If a man works in any establishment after he has been permitted by his employer or local authority to absent himself under the provisions of section 6 for any period during such authorised absence, he shall forfeit his claim to the paternity benefit for such period.

Abstract of Act and rules thereunder to be exhibited.

**17.** An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which men are employed.

Registers, etc.

**18.** Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

Penalty for contravention of Act by employer or local authority.

**19. (1)** If any employer fails to pay any amount of paternity benefit to a man entitled under this Act or discharges or dismisses such man during or on account of his absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees:

Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

**(2)** If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both:

Provided that where the contravention is of any provision regarding paternity benefit or regarding payment of any other amount and such paternity benefit or amount has not already been recovered, the court shall, in addition, recover such paternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.

Penalty for obstructing Inspector.

**20.** Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

Cognizance of offences.

**21. (1)** Any aggrieved man, an office-bearer of a trade union registered under the Trade Unions Act, 1926 of which such man is a member or a voluntary organisation registered under the Societies Registration Act, 1860 or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction but no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

16 of 1926.  
21 of 1860

**(2)** No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

Protection of action taken in good faith.

**22.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

Power of Central Government to give directions.

**23.** The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act and the State Government shall comply with such directions.

Power to exempt establishments.

**24.** If the appropriate Government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, it is necessary so to do, it may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

**25.** (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

Effect of laws and agreements inconsistent with this Act.

Provided that where under any such award, agreement, contract of service or otherwise, a man is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the man shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a man from entering into an agreement with his employer or local authority for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

**26.** (1) The appropriate Government may, subject to the condition of previous publication and by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the preparation and maintenance of registers, records and musterrolls;
- (b) the exercise of powers (including the inspection of establishments) and the performance of duties by Inspectors for the purposes of this Act;
- (c) the method of payment of paternity benefit and other benefits under this Act in so far as provision has not been made therefor in this Act;
- (d) the form of notices under section 6;
- (e) the nature of proof required under the provisions of this Act;
- (f) acts which may constitute gross misconduct for purposes of section 11;
- (g) the authority to which an appeal under sub-section (3) of section 11 shall lie; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;
- (h) the authority to which an appeal shall lie against the decision of the Inspector under section 15; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;
- (i) the form and manner in which complaints may be made to Inspectors under sub-section (1) of section 15 and the procedure to be followed by them when making inquiries or causing inquiries to be made under sub-section (2) of that section;
- (j) any other matter which is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

## STATEMENT OF OBJECTS AND REASONS

Proper care of a new born is essential for the holistic physical and mental development of the baby. Child care is the joint responsibility of both the mother and the father. They must devote time for the new born to ensure its proper well-being. The Maternity Benefit Act, 1961 provides for twenty six weeks of maternity leave and other associated benefits. However, there is no pan India legislation that provides for paternity leave.

An absence of paternity leave implies that child care is the responsibility of only the mother. A paternity leave policy can help in incremental attitudinal changes and to remove gender role distinctions. The International Labour Organisation in its 2014 Report on Maternity and Paternity at work says, "Fathers who take leave, especially those taking two weeks or more immediately after childbirth, are more likely to be involved with their young children. This can have positive effects for gender equality in the home and at work and may indicate shifts in relationships and perceptions of parenting roles and prevailing stereotypes." Introduction of paternity leave will ensure that the mother gets some support during and after childbirth and is not forced to return to the workforce in order to generate income.

Maternity Benefit Act, 1961 places the financial burden solely on employers and the absence of any paternity leave might be counterproductive as it may discourage the private sector, which is driving women employment, from hiring, retaining or promoting women. World over there has been a shift away from an employer liability system towards collective social security schemes in which the employee, employer and Government contribute towards maternity and paternity benefits.

Out of a total thirty two crore men in the labour force (NSSO, 2012 data), including those in the unorganised sector, the Bill intends to benefit men with less than two children.

At present, the Central employees under the All India and Central Civil Services Rules can avail a paid fifteen day paternity leave. India is already in the top fourteen countries to provide the highest maternity leave and by providing a fifteen day paternity leave, India will be in the top thirteen countries to provide the highest paternity leave and other associated benefits.

Hence this Bill.

NEW DELHI;  
March 15, 2016.

RAJEEV SATAV

#### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for Constitution of *Parental Benefit Scheme* fund to which the Central Government and all State Governments shall contribute. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees two thousand crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empower the Central Government to issue guidelines for implementation of Paternity Benefit Scheme. Clause 9 empowers the appropriate Government to issue guidelines for establishment, operation and maintenance of creche in every establishment. Clause 26 empowers the Central Government to make rules for carrying out the purposes of this Bill. As the guidelines and rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL No.92 OF 2017

*A Bill to provide for regulation of work of domestic workers in order to improve their working conditions and to provide social security to them; setting up of State and District Boards for the purpose and for compulsory registration of domestic workers, employers and service providers to such Boards and also for setting up of Domestic workers Social Fund and for matters connected therewith or incidental thereto.*

## CHAPTER I

## PRELIMINARY

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,  
extent,  
application and  
commencement.

**1.** (1) This Act may be called the Domestic Workers (Regulation of Work and Social Security) Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall not apply to such Domestic Workers migrating for employment to any other country.

(4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in all other cases, the Central Government;

(b) "beneficiary" means every domestic worker registered as a beneficiary under sections 6 and 7 in this Act;

(c) "child" means a person who has not attained the age of eighteen years;

(d) "Committee" means Central Advisory Committee constituted under section 16.

(e) "District Board" means the District Domestic Workers Regulation of Work and Social Security Board established under section 27;

(f) "domestic work" means work performed in or for a households;

(g) "domestic worker" means any person engaged in domestic work within the employment relationship and includes:

(i) "replacement worker" who is working as a replacement for the main workers for a short and specific period of time as agreed with the main worker and the employer;

(ii) "full time worker" means a person who is employed as a domestic worker in a single household for working hours as specified under sub-section (4) of section 39;

(iii) "live-in-worker" means a person employed as a domestic worker who lives in the employer's premises; and

(iv) "part time worker" means a person who is employed as a domestic worker for less than prescribed daily working hours of that of a full time worker, whether employed in single or multiple households;

(h) "discrimination" means any form of differential treatment on the basis of caste, race, region, language, colour, sex, creed and religion, nature of work or age at the place of work;

(i) "employer" means any person, that engages the domestic worker to do any work in a household whether part time or full time either directly or through service provider and who has an ultimate control over the affairs of the household which includes any other person to whom such affairs of the household are entrusted and in relation to contract labour, the principal employer;

(j) "employment agreement" means an agreement that lays down conditions of employment between the employer and domestic worker;

(k) "forced labour" means compelling a person to offer his/her services as a domestic worker against his will;

(l) "Fund" means the Domestic Workers Social Security Fund constituted under section 36;

(m) "notification" means a notification published in the Official Gazette;

(n) "prescribed" means prescribed by rules made under this Act by the appropriate Government;

(o) "service provider" means any voluntary association or placement agency or company registered under any law for the time being in force, which espouses the cause of domestic workers and/or provides or engages them in employment with the principal employer excluding those collectives or cooperatives that are created by the workers themselves as a means of collective bargaining;

*Explanation.*— "placement agency" means any agency/bureau/contractor or person(s) registered under this Act which provides/engages in employment of domestic workers or which facilitates the placement of domestic help for prospective employers and includes such agency or person offering services through any print, electronic or any form of communication.

(p) "State Board" means the State Domestic Workers Regulation of Work and Social Security Board constituted under section 18;

(q) "trafficking" means to recruit, transport, transfer, harbour, or receive a person by means of abuse of power or taking advantage of his position of vulnerability by threat or use of force or coercion, abduction, fraud, deception; and that includes giving or receiving of payments or benefits to achieve the consent of such person having control over another person;

(r) "workplace" means any household or a place where a Domestic Worker works as per the terms of the employment agreement; and

(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

## CHAPTER II

### REGISTRATION

Registration of domestic workers, employers and service providers.

3. (1) Notwithstanding anything contained in any law for the time being in force, all domestic workers, employers or service providers shall be registered as per procedure hereinafter prescribed.

(2) An application for registration shall be made to the District Board in such form as may be prescribed.

(3) Every application under sub-section (2) shall be accompanied by such documents together with such fee as may be prescribed.

(4) If District Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, it shall register the name of the applicant as a domestic worker under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard and without assigning reasons in writing.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the State Board and the decision of the State Board on such appeal shall be final:

Provided that the State Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the domestic worker was prevented by sufficient reasons from filing the appeal in time.

Compulsory registration of service provider.

4. Every service provider shall, prior to the process of recruitment or engagement of domestic worker, register itself with the District Board by submitting an application along with such fee and details as may be prescribed:

Provided that the District Board or any such person so authorized may entertain any such application for registration after expiry of the period fixed in this behalf, if satisfied, that the applicant had sufficient reason for delay in submitting the application.

**5.** Every employer shall, within one month from the date of engaging a domestic worker, register himself with District Board by submitting an application along with such fee and details as may be prescribed:

Compulsory registration of employer.

Provided that the District Board or any person authorized by the District Board may entertain an application for registration after expiry of the period fixed in this behalf, if satisfied that the applicant had sufficient reason for the delay in submitting the application in time.

**6. (1)** Wherever a domestic worker undertakes work through service provider, then it shall be the duty of service provider to get the domestic worker registered within one month from the commencement of the work, with the District Board by submitting an application along with such fee and details as may be prescribed.

Compulsory duty of service provider to register domestic worker.

**(2)** Where a domestic worker undertakes work under a single employer and is not engaged through any service provider or middleman or placement agency, as the case may be, then it shall be the duty of such employer to ensure that the domestic worker is registered with the District Board within one month from the commencement of the work:

Provided that the District Board or any such person so authorized by it may entertain any such application for registration after expiry of the period fixed in this behalf, if satisfied that the applicant had sufficient cause for delay in submitting the application.

**7.** Where a domestic worker undertakes part-time work in two or more households and is not engaged through any placement agency, the employer shall ensure that the domestic worker is registered with the District Board by submitting an application along with such fee and details as may be prescribed.

Registration of part-time domestic worker.

**8.** Where a domestic worker leaves the work in a district and migrates to any other area in any part of the territory of India and takes up work in any household in such part either on his own or through any agency or employer, it shall be the duty of such worker or agency or employer, respectively to inform the concerned District Board where he was registered regarding the migration and register with the District Board at the place where work has been taken up.

Migrant worker.

**9. (1)** No employer or service provider shall employ a domestic worker unless a certificate of registration in respect of such employment is issued by the respective District Board or Government servant so authorized.

Effect of non-registration.

**(2)** If the District Board or any Government servant so authorized by it is satisfied, either on a reference made to it in this behalf or otherwise that the service provider or employer fails to register the domestic workers employed by it, then it shall be held liable and punished in accordance with the provisions of this Act.

**10.** If a domestic worker fails to pay annual contribution to the District Board, he shall cease to be a beneficiary for the purposes of this Act.

Effect of non-payment of annual contribution.

**11.** Every registration certificate issued under this Act shall be renewed annually on the payment of fee as may be prescribed.

Renewal of registration certificate.

**12. (1)** No employer to which this Act applies shall employ domestic worker unless the renewal of registration certificate is carried out by him in respect of such employment as issued under this Act.

Effect of non-renewal.

(2) If the District Board or any person authorized by it is satisfied, either on a reference made to it in this behalf or otherwise that the service provider or employer fails to carry out the renewal of registration certificate, then such person shall be punished in accordance with provisions of sub-section (1) of section 52.

Beneficiaries  
of the Fund.

**13.** Subject to the provisions of this Act, every domestic worker above the age of eighteen years, registered under this Act shall be entitled to the benefits provided by the District Board from its Fund under this Act:

Provided that every domestic worker above the age of sixty years shall continue to be beneficiary under this Act without paying annual contribution to the Fund.

Identity cards.

**14.** (1) The District Board shall issue an identity card to every beneficiary registered under this Act containing such details as may be prescribed.

(2) Every beneficiary who has been issued an identity card under this Act shall, produce the same whenever demanded by any officer of the appropriate Government or the District Board or any other authority, as the case may be.

Maintenance  
and  
digitisation of  
records.

**15.** (1) The District Board shall maintain records or register of all its records duly catalogued and indexed in a manner and in prescribed form and shall ensure that all records are computerized within a reasonable time.

(2) The digitisation of the records shall be introduced through software established by the Central Government and databases available with the District Boards shall be connected through a network all over the country on different systems so that access to such records is facilitated:

Provided that it shall be the duty of the District Board to submit the computerized records to the Committee within reasonable time.

### CHAPTER III

#### IMPLEMENTING AUTHORITIES UNDER THE ACT

Constitution  
of Central  
Advisory  
Committee.

**16.** (1) The Central Government shall, by notification in the Official Gazette, shall constitute a Committee to be known as the Central Advisory Committee to advise the Central Government to carry out the functions assigned to it under this Act.

(2) The term of the Committee shall be three years.

(3) The Committee shall consist of—

(a) a Chairperson;

(b) such number of members not less than eight representing non-Governmental organisations, trade association, union or persons representing and espousing the cause of domestic workers, individuals having expertise in issues relating to **labour** matters, women and child issues, law and related interests,

to be appointed by the Central Government in such manner as may be prescribed.

(4) The salary and allowances payable to and other terms and conditions of service of Chairperson and members, procedure to be followed in the discharge of their functions and the manner of filling up of vacancies of the Committee shall be such as may be prescribed.

(5) The Committee shall meet at least once every six months to review the working of this Act.

Functions of  
the Central  
Advisory  
Committee.

**17.** (1) The Committee shall—

(a) review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government or State Governments or Union territories Administrations regarding any changes in the said Act;

(b) prepare an annual report of the administration of the Act;

(c) advise the State Boards regarding schemes in relation to social security, health, medical, education and other beneficial schemes for the welfare of domestic workers and their family members;

(d) advise upon such matters arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to all domestic workers and employers;

(e) co-ordinate and monitor the work of various District Boards to ensure portability of registration and delivery of benefits across the country representative of the registration in any one State or Union territory Board;

(f) prescribe minimum standards to achieve decent conditions of work in consultation with State Boards;

(g) recommend appropriate strategies on elimination of any form of trafficking, forced or bonded labour and child labour; and

(h) undertake any other matter assigned to it by the Central Government, from time to time.

**18.** (1) The appropriate Government shall, with effect from such date as it may, by notification, appoint, constitute a State Board to be known as the .....(name of the State) Domestic Worker Regulation of Work and Social Security Board to exercise the powers conferred on, and perform the functions assigned to it under this Act.

Constitution  
of State Social  
Security  
Boards.

(2) The State Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The State Board shall consist of a Chairperson and such other members, not exceeding fifteen, to be appointed by the appropriate Government in such manner as may be prescribed:

Provided that the State Board shall include an equal number of members representing the State Government, the employers and the domestic workers:

Provided further that at least one-third members of the State Board shall be women.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson and the other members of the State Board and the manner of filling of casual vacancies of the members of the State Board shall be such as may be prescribed.

**19.** (1) The State Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

Secretary and  
other officers  
of State Board.

(2) The Secretary of the Board shall be its Chief Executive Officer.

(3) The salary and allowances payable to and other terms and conditions of service of the Secretary and the other officers and employees of the State Board shall be such as may be prescribed.

**20.** (1) The State Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed.

Meetings of  
Board.

(2) The Chairperson or, if for any reason he is unable to attend a meeting of the State Board, any member nominated by the Chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meetings, shall preside at the meeting.

(3) All questions which come up before any meeting of the State Board shall be decided by a majority of votes of the members present and voting, and in the event of

equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

No act or proceedings of a Board shall be invalid merely by reason of vacancies, etc.

**21.** No act or proceedings of a State Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of the State Board; or
- (b) any defect in the appointment of a person acting as a member of the State Board; or
- (c) any irregularity in the procedure of the State Board not affecting the merits of the case.

Functions of the State Board.

**22. (1)** The State Board shall—

(i) with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder for all or any of the matters provided under this Act;

(ii) review and monitor the District Board and take appropriate steps to ensure its proper and effective implementation;

(iii) allocate funds to the District Board and administer the Fund;

(iv) prescribe the fees to be charged from the employers, service providers, placement agencies and domestic workers, from time to time;

(v) prescribe fee for registration as beneficiaries under the Fund and rate per mensem for the beneficiaries of the Fund;

(vi) implement schemes and welfare measures as formulated in consultation with the Committee;

(vii) prescribe the form of register to be maintained for registration of domestic workers under the Fund;

(viii) procedure for renewal of registration certificate;

(ix) entertain appeals with respect to any decision by the District Board;

(x) ensure decent conditions of service including rates of remuneration, hours of work and conditions of service of domestic workers;

(xi) provide immediate assistance to a beneficiary in case of accident;

(xii) make payment of pension to the beneficiaries who have completed the age of sixty years;

(xiii) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;

(xiv) pay such amount in connection with premium for Group Insurance Scheme of the beneficiaries as it may deem fit;

(xv) give such financial assistance for the education of children of the beneficiaries as may be prescribed;

(xvi) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;

(xvii) make payment of maternity benefit to the female beneficiaries; and

(xviii) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The State Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the appropriate Government for the welfare of domestic workers in any establishment.

(3) The State Board shall pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the State Board welfare measures and facilities of the standard specified by the State Board for the benefit of the domestic workers and the members of their family:

Provided that the amount payable as grants-in-aid to any local authority or employer shall not exceed—

(a) the amount spent in providing welfare measures and facilities as determined by the State Governments or any person specified by it in this behalf; or

(b) such amount as may be prescribed, whichever is less:

Provided further that no grant-in-aid shall be payable in respect of any welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

**23.** The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a State Board grants and loans of such sums of money as it may consider necessary.

Grants and loans by the Central Government.

**24.** The State Board shall prepare, in such form and at such time each financial year, as may be prescribed, its Budget for the next financial year, showing the estimated receipts and expenditure of the State Board and forward the same to the appropriate Government.

Budget.

**25.** The State Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

Annual report.

**26. (1)** The State Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the State Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The State-Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of the State Legislature.

**27. (1)** The State Government may for the purposes of preparation and implementation of the schemes for welfare of domestic workers, in a District, by notification in the Official Gazette, establish such number of District Boards to be known as the District Domestic Workers Regulation of Work and Social Security Board:

Establishment of District Domestic Workers Regulation of Work and Social Security Board.

Provided that the State Government may constitute such Board for two or more Districts:

Provided further that the State Government may, by notification, constitute more than one Board for a District and specify the local limits in which such Boards shall have jurisdiction or authorize any existing Board under any other law dealing with labour related matters.

(2) The District Board shall consist of a Chairperson and such other members nominated, from time to time, by the State Government representing the employers, the domestic workers and the State Government:

Provided that the members representing employers and domestic workers shall be equal in number, and the members representing the State Government shall not exceed one-third of the total number of members representing employers and domestic workers:

Provided further that the Chairperson of the District Board shall be one of the members representing the State Government and nominated in this behalf by the State Government.

(3) The salary and allowances payable to any other terms and conditions of service of Chairperson and member of the District Board shall be such as may be prescribed.

(4) The District Board shall meet at least once every four month to review the operation of the Act and evaluate the implementation of the Act.

(5) The meetings of the Board and the procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall be such as may be prescribed.

Functions of  
the District  
Board.

**28. (1)** The District Boards shall—

(a) carry out the registration of domestic workers, employers and service providers and placement agency as per the procedure prescribed under the Act in the name and account of State Board either directly or through the Workers Facilitation Centres and maintain records and registration of domestic workers as beneficiaries under the Act;

(b) collect from employers and service providers a monthly amount equal to two *per cent.* of the wages paid to domestic workers or one *per cent.* of the house tax being paid by the employer or service providers, whichever is higher;

(c) grant following benefits to beneficiaries under the Act:—

(i) provision for immediate assistance and rehabilitation to a beneficiary in case of an accident arising in the course of employment;

(ii) financial assistance for the education of beneficiary and his children;

(iii) provision for medical expenses for treatment of ailments of a beneficiary or his such dependent;

(iv) provision for maternity or paternity benefit to the women or men beneficiaries:

Provided that such maternity or paternity benefit shall be restricted to two children only;

(v) make payment of funeral expenses to the legal heir on the death of the beneficiary;

(vi) facilitate the settlement of disputes through conciliation;

(vii) renewal of registration certificate and collection of annual contribution;

(viii) issue of identity card for the beneficiary;

(ix) disseminate information on available social security schemes for the workers;

(x) authorize the workers Facilitation Centre to act as an authorized intermediary in collecting contributions from the workers and others as mandated under the Act and remit them to the district Board;

(xi) authorize workers Facilitation Centre to carry out surprise visits to the working place of the domestic workers and check the implementation of the Act;

(xii) training and imparting skills to the domestic workers;

(xiii) authorize the workers Facilitation Centre to conduct surveys for beneficiaries;

(xiv) provide legal aid to beneficiaries in case of a court proceeding to address their claims;

(xv) implement schemes or welfare measures framed by the Central Board in consultation with the State Boards;

(xvi) maintain complaint registers for grievance redress of domestic workers;

(xvii) establish or devise establishment of creche facilities for children of domestic workers;

(xviii) admit upon request of the aggrieved domestic worker into rehabilitation centres established by the appropriate Government; and

(xix) such other benefits as may be decided by the Board, from time to time;

(d) in consultation with the State Board may make available such schemes as applicable under other laws such as the Unorganized Workers Social Security Act, 2008.

33 of 2008.

(2) The District Board shall designate any one or more of the following at such areas as may be considered necessary, as Workers' Facilitation Centres for purposes of facilitating registration of workers:—

(i) local Panchayati Raj Institutions or urban local bodies; or

(ii) resident welfare associations or society; or

(iii) non-profit organizations working among the domestic workers:

Provided further that such Workers' Facilitation Centres shall function under the supervision of the District Board.

(3) The District Board shall maintain such registers and records giving such particulars of domestic workers employed the nature of work performed by the domestic worker, and such other particulars in such form as may be prescribed.

**29. (1)** Subject to any rules by the State Government in this behalf, the District Board may, within the local limits—

Powers of the District Board.

(a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied within any place or premises;

(b) require the production of any document, record or evidence (written or oral); and

(c) enter, with such assistance as it may consider necessary, at all times any place or premises if there are reasonable grounds for suspecting that any domestic worker has or is being subjected to any form of sexual exploitation or wrongfully confined in any such place or premises or rescue any child being used employed as a domestic worker.

(2) Every employer shall accord to the Board, all reasonable facilities in the discharge of his duties under this Act.

(3) Each District Board shall have the same powers as are vested in civil court under the Code of Civil Procedure, 1908, when adjudicating a dispute in respect of the following matters, namely—

5 of 1908.

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) in respect of such other matters as may be prescribed.

Disqualification  
and removal  
of member.

**30.** (1) No person shall be chosen as, or continue to be, a member of the District Board who,—

- (a) is a salaried officer of the District Board;
- (b) is or at any time has been adjudged insolvent;
- (c) is found to be a lunatic or become of unsound mind; or
- (d) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any member, who—

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(b) is absent without leave of the District Board for more than three consecutive meetings of the District Board;

(c) in the opinion of the Government, has so abused the position of member as to render that persons continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member:

Provided that, no person shall be removed under clause (c) unless such person has been given a reasonable opportunity to showcause as to why he should not be removed.

(3) Notwithstanding anything contained in any other provisions of this Act, the members shall hold office during the pleasure of the State Government and if in the opinion of the State Government,—

(a) the member representing employers and the domestic workers, ceases to adequately represent the employers or, as the case may be, the domestic workers, or

(b) having regard to exigencies of circumstances or services in the State Government, the member representing the State Government cannot continue to represent the State Government,

then it may, by an order, remove all or any of them from office at any time.

Resignation  
from office by  
member.

**31.** Any member of the District Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of the resignation, become vacant.

Proceedings  
presumed to be  
good and valid.

**32.** No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

Secretary and  
other officers  
of the District  
Board.

**33.** (1) The District Board shall, with the approval of the State Government, appoint a full time Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The Secretary of the District Board shall be its Chief Executive Officer.

(3) The salary and allowances payable to and other terms and conditions of service of the secretary and other officers and employees of the District Board shall be such as may be prescribed.

**34.** (1) Every case of complaints relating to non-functioning of the District Board, shall be filed with the State Board in such form and manner as may be prescribed.

Dissolution of the District Board.

(2) The State Board shall, after conducting an enquiry found the complaint to be true and the District Board dysfunctional, dissolve the District Board.

(3) Upon dissolution of a District Board under sub-section (2), New District Board shall be constituted within fifteen days.

**35.** No child shall be employed as a domestic worker or for any such incidental or ancillary work which is prohibited under any law for the time being in force.

Employment of a child.

#### CHAPTER IV

##### ESTABLISHMENT OF DOMESTIC WORKERS SOCIAL SECURITY FUND

**36.** (1) There shall be constituted a Fund to be known as Domestic Workers Social Security Fund, and credited thereto—

Domestic Workers Social Security Fund.

(a) the amount collected every month by the District Board under clause (b) sub-section (1) of section 28;

(b) employers' contribution collected by the District Boards in the name and account of the State Board as annual registration fees under section 6;

(c) any grants made to the Fund by the Central Government and State Government or any other person or organisation;

(d) all amounts from the District Boards received as registration and other fees of domestic workers, employers and service providers;

(e) any income from investment from nationalized bank;

(f) share from Gross Domestic Product and State revenue;

(g) all fines collected under this Act; and

(h) all other sums received by the Board from any other sources.

(2) The Fund shall be administered and applied by the District to meet the expenditure incurred in connection with measures and facilities which, are necessary or expedient to promote the welfare and social security of domestic workers to,—

(i) defray the cost of such welfare measures or facilities for the benefit of domestic workers or beneficiaries as may be decided by the State Board; and

(ii) sanction any money in aid of any scheme for the welfare of the domestic workers including family welfare, family planning, education, insurance and other welfare measures.

**37.** Every domestic worker or employee who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem, as may be prescribed:

Contribution of domestic workers or employers.

Provided that the District Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

**38.** When a beneficiary has not paid his contribution under sub-section (1) of section 36 for a continuous period of not less than one year, he shall cease to be a beneficiary, but he shall continue to be a member:

Effect of non-payment of contribution.

Provided that if the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the domestic workers is willing to deposit the arrears, he may allow the domestic workers to deposit the contribution in arrears and on such deposit being made, the registration or entitlement to receive benefits of domestic workers shall stand restored.

## CHAPTER V

## REGULATION OF THE WORKING CONDITIONS

Duties of the employer and service provider.

**39.** (1) Every employer and service provider shall provide such particulars of the domestic workers engaged directly or through agency, to the district Board or any person so authorized by the Board, in such form and paying such fees as may be prescribed.

(2) No service provider or a person or agency shall carry on the business of providing domestic workers to any employer unless the said service provider or agency or person is registered under the Act.

(3) The Service provider shall maintain the records in a standard format as prescribed by the board of all domestic workers being contracted by them for purposes of employment from any part of the territory of India and provide the details thereof in such form as may be prescribed.

Working hours of the domestic workers.

**40.** For the purposes of this Act, the working hours of the domestic worker shall be as follows:—

(a) weekly working hours—no employees shall be required or allowed to work for more than forty-eight hours in a week;

(b) daily working hours—subject to weekly working hours, no domestic worker shall be required or allowed to work for more than nine hours in a day;

(c) duration of working hour—the period of work of a domestic worker shall be so arranged that inclusive of the intervals for rest, it shall not spread over more than twelve hours per day;

(d) weekly holidays—every domestic worker irrespective of being a full-time part-time, live-in, night-shift shall be entitled to a weekly day off;

(e) restriction on overtime—the total hours of overtime work in a days shall not exceed ten hours in a day and in the aggregate twelve hours in any week;

(f) wages for overtime work—where a domestic worker works for more than the maximum working hours as perescribed he shall, in respect of the overtime work, be entitled to wages at the twice of his ordinary rate of wages; and

(g) interval for rest—the periods of work of a domestic worker each day shall be so fixed that no period shall exceed five hours at a stretch with an interval for rest of at least half an hour.

Basic amenities.

**41.** It shall be the duty of the employer to provide the domestic worker with basic amenities like safe drinking water, food, first-aid and washroom facilities.

Accommodation for live-in domestic workers.

**42.** It shall be the duty of the employer to provide a live-in domestic worker with private and decent accommodations for rest and dressing.

Payment of wages.

**43.** It shall be the duty of the employer to pay the wages directly to the bank account of the domestic worker within the first five days of the month in such manner as may be prescribed.

Termination from employment.

**44.** The employer or domestic worker shall before termination of employment, give one month notice to the domestic worker or employer, as the case may be:

Provided that the employer before termination of employment shall provide wages worth fifteen days of employment to the domestic worker.

Leave.

**45.** (1) Every domestic worker shall be entitled to,—

(a) a paid sick leave not exceeding fifteen days on the account of being sick; and

(b) fifteen days of annual paid leave if he has worked for a period of two hundred forty days exceeding the weekly holidays or sick leave.

34 of 1948.

**46.** Every domestic worker shall enroll himself under the Employee State Insurance Scheme as provided under the Employee State Insurance Act, 1948 so as to avail benefit from health cover including maternity benefit provided under that Act.

Enrollment of domestic worker under Employee State Insurance Scheme.

**47.** No domestic worker shall be subjected to the offence of sexual, physical or verbal assault, violence, trafficking, wrongful confinement and bonded or forced labour by any employer or a member of his household.

Prohibition of crime against domestic worker.

**48.** (1) No employer registered under this Act shall discriminate a domestic worker on the basis of caste, race, region, language, colour, sex, creed or religion, in matters such as recruitment, conditions of employment or payment of wages.

No discrimination at work place.

(2) No voluntary association or agency shall discriminate a domestic worker on the grounds mentioned in rehabilitation, recruitment, placement and payment.

*Explanation.*—For the purpose of the section there shall be equal payment for equal work requiring the same amount of work, skill set, and effort.

**49.** (1) The appropriate Government shall, by notification, fix the minimum rate of wages payable to domestic worker.

Minimum wages.

(2) The appropriate Government shall review minimum wages at such intervals as it may think fit:

Provided that such intervals shall not exceed five years.

(3) The appropriate Government may fix—

(a) minimum rate of wages for time work (hereinafter referred to as ‘a minimum time rate’);

(b) minimum rate of wages for piece work (hereinafter referred to as ‘minimum piece rate’);

(c) minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as ‘a guaranteed time rate’);

(d) minimum rate (whether a time rate or a piece rate) to apply in substitution for minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as ‘overtime rate’);

(e) minimum rates of wages by any one or more of the following wage—  
periods, namely:—

(f) by the hour,

(g) by the day,

(h) by the month.

## CHAPTER VI

### GRIEVANCE REDRESSAL AND DISPUTE RESOLUTION

**50.** (1) The appropriate Government shall, by notification in the Official Gazette, constitute for every district one or more Grievance Redressal Committee for the resolution of disputes arising out of grievances relating to rejection and denial of registration, cancellation of registration and claims as well as other grievances regarding District Board.

Grievance Redressal Mechanism.

(2) The Grievance Redressal Committee shall consist of—

(a) a Chairperson; and

(b) three members each representing employees and domestic workers, to be appointed by the appropriate Government in such manner as may be prescribed:

Provided that the Chairperson of the Grievance Redressal Committee shall be selected from the employers and from amongst the domestic workers alternatively on rotation basis every year:

Provided further that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(3) Notwithstanding anything contained in this section, the constitution of Grievance Redressal Committee shall not affect the right of the domestic worker to raise any dispute on the same matter under the provisions of this Act.

(4) The Grievance Redress Committee shall dispose off the complaint within forty-five days of receipt of a written complaint by or on behalf of the employee or the domestic worker, as the case may be.

(5) The employee or the domestic worker, as the case may be, who is aggrieved of the decision of the Grievance Redressal Committee may appeal to the District Collector against the decision of Grievance Redressal Committee and the Collector shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the employee or the domestic worker, as the case may be.

(6) Nothing contained in this section shall apply to the worker for whom there is an established Grievance Redressal Mechanism in the establishment concerned.

Setting up of  
Special Court.

**51.** (1) The appropriate Government shall, by notification in the Official Gazette, set up adequate number of special courts to deal with complaints of domestic workers against the employers or service providers, as the case may be, to provide interim relief including reinstatement or continuity of service of domestic workers, as the case may be.

(2) Every special court established under sub-section (1) shall be headed by a Chief Judge who shall be qualified to be appointed as District Judge and shall have such number of other Judges as the appropriate Government may prescribe.

(3) The qualification and salary, allowances and other terms and conditions of service of the Chief Judge and other Judges shall be such as may be prescribed.

## CHAPTER VII

### OFFENCES AND PENALTIES

Offences and  
penalties.

**52.** (1) Any Service provider or placement agency or employer, as the case may be, who is not registered under this Act or has not renewed the registration certificate as per this Act shall be punishable with imprisonment for a term which may extend upto three months and with fine which may extend upto twenty thousand rupees, or with both.

(2) Any service provider or agencies or employer who contravenes the provisions of the Act for the first time shall be punishable with imprisonment for a term which may extend upto three months and with fine which may extend to twenty thousand rupees, or with both.

(3) If any person who has been convicted of any offence punishable under sub-section (2) is again found guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend upto six months and with fine which shall not be less than forty thousand rupees but which may extend upto fifty thousand rupees or with both.

(4) In case of default of payment to the domestic worker, the employer shall be liable to make payment along with the interest on such payment as may be prescribed:

Provided that if the employer makes payment to any domestic worker less than the minimum rates of wages fixed for his work, or less than the amount due to him under the provisions of this Act shall be punishable with imprisonment for a term which may extend upto six months or with fine which may extend upto twenty thousand rupees or with both.

(5) Any person who willfully obstructs any officer so authorized by the District Boards to conduct inspection under the act or refuses or willfully neglects to afford the such officer any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to the employer or a service provider to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend upto twenty thousand rupees.

(6) Whoever willfully refuses to produce on the demand of such an inspecting person so authorized by the District Boards, any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he/she has reason to believe is likely to prevent any person from appearing before or being examined by an inspecting person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend upto three months or with a fine which may extend upto twenty thousand rupees, or with both.

(7) Any person who—

(i) knowingly sends, direct or takes female to any place for immoral purposes or to a place where she is likely to morally corrupted;

(ii) in any manner sexually exploits or indulges in trafficking of domestic worker or child; or

(iii) if found ill treating or discriminating any domestic worker on the basis of caste, sex, class, race, religion or region;

(iv) in any manner abuses or illegally confines any domestic worker; or,

(v) compels any person to render any forced labour; or,

(vi) engages any child as a domestic workers,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend upto seven years and fine which may extend upto rupees fifty thousand or with both.

**53.** On identification of victim by service provider or District Board, the complaint shall be initiated to the Chief Judicial Magistrate by the service provider or District Board, whatsoever the case may be.

Complaint mechanism.

**54.** For the victims of forced labour, sexual exploitation, discrimination, illegal confinement or any kind of abuse, the District Board or service provider, as the case may be, shall provide with emergency aid, medium term assistance and legal aid in conduct of the legal proceedings and admit the victim to rehabilitation homes.

Emergency aid, medium term assistance and legal aid.

**55. (1)** No court shall take cognizance of any offence punishable under this Act except on a complaint—

Court not to take cognizance of any offence punishable.

(a) make by, or with the previous sanction in writing of, the State Board or the District Board; or

(b) make by an office-bearer of a voluntary organization registered under the Societies Registration Act, 1860 or Trade Unions Act, 1926 or any other law for the time being in force;

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

## CHAPTER VII

### MISCELLANEOUS PROVISIONS

Effect of laws and agreements inconsistent with the Act.

**56.** (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, whether made before or after the commencement of this Act.

(2) Nothing contained in this Act shall be construed as precluding any worker from entering into an agreement with the principal employer as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

Supersession of the State Board.

**57.** (1) If the appropriate Government is satisfied that, or otherwise is of the opinion that—

(a) the State Board is unable to perform its functions; or

(b) the State Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers, then the State Government may, by notification in the Official Gazette, supersede the State Board and re-constitute it in the manner specified in section 18 within a period of twelve months from the date of supersession:

Provided that the period of supersession may be extended by not more than six months for sufficient reasons by a notification:

Provided further that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the State Board to show cause why it shall not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers and functions of the Board under this Act shall be exercised and performed by the State Government or by such officer or officers as the State Government may appoint for this purpose.

(3) When the Board is superseded, the following consequences shall ensure, that is to say—

(a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;

(b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification;

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such funds and property shall reinvest in the Board.

Power to remove difficulties.

**58.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**59.** (1) The State and District Boards shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed. Accounts and Audit.

(2) The Committee shall furnish to the Central Government, before such date as may be prescribed, the audited copy of the consolidated account of itself and the Funds together with the auditor's report.

(3) The State and District Boards shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

34 of 1948.  
25 of 1976.  
14 of 1947.  
30 of 1979.  
53 of 1961.  
11 of 1948.  
21 of 1965.  
39 of 1972.  
4 of 1936.  
14 of 2013.  
16 of 1926.  
33 of 2008.  
8 of 1923.

**60.** The Welfare provisions of the Employees State Insurance Act, 1948, Equal Remuneration Act, 1976, Industrial Dispute Act, 1947, *Inter-State* Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Maternity Benefit Act, 1961, Minimum Wage Act, 1948, Payment of Bonus Act, 1965, Payment of Gratuity Act, 1972, Payment of Wages Act, 1936, Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Trade Unions Act, 1926, Unorganised Worker Social Security Act, 2008, Workmen's Compensation Act, 1923 shall also apply to the domestic workers registered under this Act. Application of other Acts.

**61.** The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force. Act not in derogation of other laws.

**62.** (1) The appropriate Government may, by notification in the Official Gazette, and subject to the conditions of previous publication except when the rules are made for the first time, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the forgoing provision, such rules may be made for all or any of the following matters, namely:—

(a) term of office of members of the State and District Board as the case may be;

(b) rate of travelling and daily allowances to be payable to members of the State and District Board for attending meetings of the State and District Board as the case may be;

(c) form of application for registration as a beneficiary;

(d) documents to be accompanied along with application for registration as a beneficiary and fees for the same;

(e) registers to be maintained by the Secretary of the State and District Board as the case may be;

(f) form of an application to be made by a beneficiary to the District Board and documents which may be accompanied to such application, for grant of payments out of the fund;

(g) amount of contribution of the beneficiaries to the fund;

(h) form of annual statement of accounts including a balance sheet;

(i) form in which and the time when the budget of the Board is to be prepared and forwarded to the State Government;

(j) form in which and the time when the annual report of the Board is to be prepared and submitted to the State Government;

(k) number of members of the Advisory Committee and the manner in which they may be chosen;

(l) term of office of members of the Committee; and

(m) rate of travelling and daily allowances to be payable to members of the Committee for attending meetings of the Committee.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

## STATEMENT OF OBJECTS AND REASONS

In the last few decades there has been a tremendous growth in the demand for domestic workers. Poverty has also forced people to migrate in search of work and workers with no other *skills*, turn to domestic work. This has also led to the trafficking and other forms of exploitation of millions of women and children of both the sexes. To meet growing demand for domestic help, there has been a spurt of thousands of placement agencies providing domestic workers in metro-towns of many States who remain outside the purview of any legislative control.

Absence of any legal protection, has led to severe exploitation of women and children which includes depriving domestic workers of a decent wage and excessive working hours of work. For the live-in domestic workers, there is absence of proper food and living/sleeping space, lack of freedom of mobility, isolation, exposure to harassment and sexual exploitation by agents during transit and work.

In 2011 the domestic workers won a victory at the International Labour Conference when an overwhelming majority of member countries voted in favour of a Convention to uphold the rights of domestic workers. Convention 189 and Recommendation 201, to which the Government of India is a signatory, explains in detail how domestic workers need to be protected and awarded. Whereas the Government of India has not yet ratified Convention 189, the Government of India has included domestic workers in the Anti Harassment at the Workplace Act and some schemes like the *Rashtriya Swasthya Bima Yojana (RSBY)*. A few State Governments have notified minimum wages for domestic workers and included them in some welfare schemes while the State of Maharashtra has enacted a welfare Act for domestic workers. Nevertheless in the absence of a central legislation capable of reaching all domestic workers none of these State level measures will deliver justice to domestic workers.

As domestic workers are an important segment of the service sector of the Indian economy and who have a multiplier impact on the economy by enabling the women in particular to work by sharing the family burden, only a comprehensive Central Legislation specifically designed to meet the working condition of the domestic workers can ensure the end of the exploitation of these workers.

It is in the public interest that domestic work, employing, as it does, a very large number of poor and vulnerable women and whose conditions of work and living need amelioration and to whom regularity of employment must be assured, placement agencies must be regulated so that the Directive Principles of the Constitution, more particularly the relevant provisional articles 39, 41, 42, 43, and 43-A of the Constitution are given effect to by a law made by Parliament with reference to entries 22, 23 and 24 of List III in the 7th Schedule to the Constitution.

Hence this Bill.

NEW DELHI;  
April 6, 2017.

SANKAR PRASAD DATTA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the registration of domestic workers, employees and service providers in such manner as may be prescribed. Clause 16 provides for the constitution of the Central Advisory Committee by the Central Government. It also provides for appointment of a Chairperson and other members of the Committee. Clause 18 provides for the constitution of State Domestic Workers Regulation of Work and Social Security Board. Clause 19 provides for appointment of Secretary and other officers and employees to the State Board. Clause 22 provides that State Boards shall make grants to the local authority and employees for providing benefits to the domestic worker. Clause 23 provides that Central Government shall provide grants and loans to the State Boards. Clause 27 provides for the constitution of District Domestic Workers Regulations of Work and Social Security Board.

Clause 33 provides for appointment of Secretary and other officers to the District Board. Clause 36 provides for constitution of Domestic Workers Social Security Fund.

Clause 50 provides for the constitution of Grievance Redressal Committee. Clause 51 provides for setting up of Domestic Worker Court. The expenditure relating to State shall be borne out of the Consolidated Fund of the State concerned. The expenditure relating to the Union territories shall be incurred from the Consolidated Fund of India.

The Bill, therefore, if enacted would involve expenditure from the consolidated Fund of India. It is estimated that recurring expenditure of about rupees Twenty thousand two hundred forty crore and Forty seven lakh per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees Four thousand and forty eight crore is also likely to be incurred.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 62 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

## BILL NO.100 OF 2017

*A Bill to codify and safeguard the right to privacy in the digital age and constitute a Data Privacy Authority to protect personal data and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Data (Privacy and Protection) Act, 2017.

(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it shall also apply to any offence or contravention thereunder committed outside India by any person.

Short title,  
extent, and  
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provisions to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "anonymised data" means data or information processed in such a manner that it no longer relates to an identified or identifiable person;

(b) "Authority" means the Data Privacy and Protection Authority constituted under section 44;

(c) "armed force" means any body raised or constituted pursuant to or in connection with, or presently governed by, the Army Act, 1950 (46 of 1950), the Indian Reserve Forces Act, 1888 (4 of 1888), the Territorial Army Act, 1948 (6 of 1948), the Navy Act, 1957 (62 of 1957), the Air Force Act, 1950 (45 of 1950), the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952), the Coast Guard Act, 1978 (30 of 1978) or the Assam Rifles Act, 2006 (47 of 2006);

(d) "authorised officer" means an officer, not below the rank of a Gazetted Officer, of an All India Service or a Central Civil Service, as the case may be, who is empowered by the Central Government, by notification in the Official Gazette, to intercept a communication of another person or carry out surveillance of another person under this Act;

(e) "communication" means a word or words, spoken, written or indicated, in any form, manner or language, encrypted or unencrypted, meaningful or otherwise, and includes visual representations of words, ideas, symbols and images, whether transmitted or not transmitted and, if transmitted, irrespective of the medium of transmission;

(f) "data" shall for the purpose of this Act refer to data as defined under clause (o) of sub-section (1) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(g) "data controller" means a person who, either alone or jointly or in combination with other persons, determines the purposes for which and the manner in which any personal data are used, or are to be, processed;

(h) "data processor" with respect to personal data means any person, apart from an employee of a data controller, who processes data independently or on behalf of a data controller;

(i) "interception" or "intercept" means any activity intended to capture, read, listen to, record and/or copy communication of a person;

(j) "intelligence organisation" means institutions set-up under the Intelligence Organisations (Restriction of Rights) Act, 1985, the National Investigation Agency Act, 2008 and/or any other institution set up by the Central Government through an Act of the Parliament or the Executive for the purpose of collection, monitoring, processing and/or analysis of information relevant to national security. 58 of 1985. 34 of 2008.

(k) "person" shall for the purpose of this Act refer to an individual:

(l) "personal data" means any data or information which relates to a person if that person can, whether directly or indirectly in conjunction with any other data, be identified from it and includes sensitive personal data;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "processing" with respect to data, means obtaining or recording the information or data or carrying out any operation or set of operations on the information or data, whether or not by automatic means, including—

- (i) organisation, adaptation or alteration of the information,
- (ii) or data,
- (iii) retrieval, consultation or use of the information or data,
- (iv) disclosure of the information or data by transmission, dissemination or otherwise making available, or
- (v) alignment, combination, blocking, erasure or destruction of the information or data.

(o) "pseudo-anonymisation" means processing of personal data in such a manner that the personal data can no longer be attributed to a specific person without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable person;

(p) "portability" refers to the extent to which data can be moved, copied, transferred or shared by any other means between different computers, computer networks, computer systems, and/or computer resource;

(q) "profiling" means any form of automated processing of personal data consisting of the use of personal data or information to record and classify behaviour of individuals to predict and analyse their daily activities for purposes other than promotion and marketing of goods and services;

(r) "surveillance" means any activity intended to collect, watch, monitor, intercept, or enhance the ability to do the same with a view to obtain information about a person, group of persons or class of persons through analysis of any communication, images, signals, data, movement, behaviour or actions;

(s) "sensitive personal data" means such personal information which consists of information relating to—

- (i) racial or ethnic origins, political or religious views;
- (ii) passwords;
- (iii) financial information such as bank account or credit card or debit card or other payment instrument details or financial transactions records;
- (iv) physical, physiological and mental health condition;
- (v) sexual activity;
- (vi) medical records and history;
- (vii) biometric data relating to the physical, physiological or behavioural characteristics of a natural person which allow their unique identification including, but not limited to, facial images, genetic information, fingerprints, hand prints, foot prints, iris recognition, hand writing, typing dynamics, gait analysis and speech recognition;
- (viii) any details relating to clauses (i) to (vii) above as provided to body corporates for providing service; and
- (ix) any of the information received under clauses (i) to (vii) above by body corporates for processing, stored or processed under lawful contract or otherwise:

22 of 2005      Provided that any information that is freely and lawfully available or accessible in public domain or furnished under the Right to Information Act, 2005 or any other law for the time being in force shall not be regarded as sensitive personal data for the purposes of this Act; and

(t) "third party" means any person, public authority, agency or any other body other than the person whose data is collected or processed, the controller, the processor, and the persons who, under the authority of the controller or the processor, are authorized to process data or are recipients of the data so processed.

Application.

3. (1) This Act shall apply to—

(a) collection, use, storage, disclosure and processing of personal data or information of all persons through wholly or partially automated or manual methods;

(b) data controllers and data processors which are State entities, including Government agencies or authorised personnel on their behalf as well as private companies, partnerships or any other body corporate which conduct activities within the territory of India through a registered place of business or establishment, irrespective of whether data processing is carried out at such place or outside the territory of India; and

(c) data controllers and data processors which are State entities, including Government agencies or authorised personnel on their behalf as well as private companies, partnerships or any other body corporate which do not have a registered place of business or establishment in India and offer goods or services to persons in India, irrespective of consideration, as defined under the Indian Contracts Act, 1872, being sought *in lieu* of such goods or services. 9 of 1872.

(2) Nothing in this Act shall apply to collection or processing of data mentioned in Schedule I:

Provided that the Central Government may, by notification in the Official Gazette, amend Schedule I by way of addition and deletion of entries thereto :

Provided further that every notification under sub-section (2) shall be issued after consultation with the Authority and shall be laid before each House of Parliament.

## CHAPTER II

### RIGHT TO PRIVACY AND DATA PROTECTION

Right to privacy.

4. Notwithstanding anything contained in any other law for the time being in force, pursuant to article 19 and 21 of the Constitution and subject to the provisions of this Act, all persons shall have a right to privacy.

Express consent.

5. (1) No person shall collect, store, process, disclose or otherwise handle any personal data of another person, intercept any communication of another person or carry out surveillance of another person except in accordance with the provisions of this Act.

(2) For the collecting, processing, storing, disclosing and otherwise handling personal data, express and affirmative consent has to be obtained from the requisite person after full disclosure of information as required under Schedule II of this Act.

(3) Consent under sub-section (2) shall be considered valid only if it is freely given, specific, informed and an unambiguous indication of a person's intention to allow collecting, processing, storing, disclosing and/or otherwise handling personal data.

(4) Notwithstanding the above, consent may be overridden in cases where there is a legal obligation or medical emergency which is fatal or may likely lead to permanent or irreversible bodily harm as well as the reasonable restrictions mentioned in section 15:

Provided that any consent may only be overridden to the extent necessary and the person so affected shall be informed of the same.

Binding determination.

6. For the purposes of section 4, every person shall have the final and binding power to determine the manner in which his personal data is to be dealt with.

7. Every person shall be duly informed about the processing of information through issuance of a privacy notice which shall be concise, timely, updated, transparent, intelligible, written in clear and plain language (both English and vernacular language), be easily accessible and provided free of cost to persons with the information specified in Schedule II:

Person to be duly informed.

Provided that where consent is being sought with regard to a written declaration/online form which contains other clauses and matters, the clauses or portions regarding the privacy notice should be clearly distinguishable from other clauses and matters.

8. Every person shall have access to his personal data which is collected, processed, used or stored by Data Controllers and Data Processors, including the right to obtain a copy and obtain confirmation that his data is being processed along with any supplementary information corresponding to the information mandated under Schedule II of this Act.

Access to personal data.

9. (1) Every person shall have the right to have his personal data rectified if it is inaccurate or incomplete.

Rectification of personal data.

(2) Every rectification under sub-section (1) shall be carried out by the Data Controller and/or Data Processor in the manner notified by the Central Government in consultation with the Authority as it may deem appropriate:

Provided that every rectification shall be completed within a period of sixty days of receipt of data for rectification.

(3) Any person who collects, receives, stores, processes or otherwise handles any personal data of another person shall, to the extent possible, ensure that it is not inaccurate or misleading and, where necessary, is kept up to date.

(4) No person who collects, receives, stores, processes or otherwise handles any personal data shall deny, to the person to whom any personal data so collected, received, stored, processed or otherwise handled pertains, the opportunity to review it and, where necessary, rectify anything that is inaccurate, misleading or not up to date.

10. (1) Every person shall have the right to seek removal of personal data from Data Controller—

Seeking removal of personal data.

(a) where personal data is no longer necessary with regard to the purpose for which it was originally collected or processed; or

(b) where the person withdraws consent; or

(c) where personal data has been obtained unlawfully; or

(d) where personal data is required to be erased in accordance with a legal obligation pursuant to a Court order.

(2) Notwithstanding anything contained in Sub-section (1), removal of personal data shall not be allowed if there are overriding legitimate interests and it is necessary—

(a) in the interest of fundamental rights;

(b) for compliance of a legal obligation or court order or an any action taken by an officer in exercise of the power vested in him;

(c) for establishing or defending a legal claim;

(d) to safeguard public interest.

#### Illustration

If A, a convicted sex offender, seeks removal from the online sex offender registry maintained by the Government, the same shall be disallowed in light of the overriding public interest of safety of women and children.

Restrict processing.

**11.** (1) During the pendency of consideration of request for removal of specific personal data, the Data Controller and Data Processor shall restrict processing of the specific personal data of the person.

(2) It is hereby clarified that sub-clause (1) shall not restrict the collection/storage of personal data.

Data portability.

**12.** Every person shall, as and when required, receive the personal data concerning him, which he has provided to a data controller, in a structured, commonly used and machine-readable format and have the right to data portability to another data controller without any hindrance.

Breach of personal data.

**13.** Every person shall have the right to be duly and promptly informed, within seven days about any unauthorized access, destruction, use, processing, storage, modification, de-anonymisation, unauthorized disclosure (either accidental or incidental) or other reasonably foreseeable risks or data security breaches of pertaining to their personal data.

Legitimate expectation of due diligence.

**14.** (1) Every person at the stage of giving consent for collection, processing, use or storage shall have a legitimate expectation that data controllers and data processors shall abide by the provisions of this Act.

(2) Data Controllers and/or Data Processors shall take all security measures necessary for safeguarding and securing the personal data in their custody with due diligence.

Reasonable restrictions.

**15.** Notwithstanding anything contained in this Act, the right to privacy shall be restricted by the Authority in the manner specified by this Act for—

(a) reasonable safeguards for sovereignty or integrity of India, national security and for the defence of country;

(b) prevention of suspected acts of terrorism, corruption, money laundering, organised crime, sale or purchase of narcotic and psychotropic substances;

(c) investigation of cognisable and non-bailable offences under the Indian Penal Code, 1860 after a report has been duly filed under section 154 of the Criminal Procedure Code, 1973;

45 of 1860.  
2 of 1874.

(d) investigation of any other offences under the Indian Penal Code, 1860, or any other Act for the time being in force, after an appropriate order has been obtained from the requisite judicial authority with regard to existence of probable cause and providing a fixed time-frame for such collection or processing; and

45 of 1860.

(e) maintenance of public order in situations of imminent danger of breakdown:

Provided that the above restrictions must be adequate, relevant, proportionate, not excessive in nature and must be imposed in the manner prescribed.

### CHAPTER III

#### METHODS AND PRINCIPLES OF DATA COLLECTION AND PROCESSING

Collection and processing, etc. of personal data with prior consent.

**16.** (1) No personal data shall be collected, processed, stored, accessed or monitored without prior express consent of the person directly affected by such act.

(2) Consent should be express, affirmative and taken after information as mandated under Schedule II has been provided to the person in a manner which is clearly distinguishable, concise, timely, updated, transparent, intelligible, written in clear and plain language (both English and vernacular language):

Provided that every person subject to data collection shall be duly informed and be provided fair opportunity or mechanism to revoke consent at any time often has consent to the collection of personal data has been obtained:

Provided further that where the purpose of processing of data are changed or added or varied in any manner whatsoever, such additional data collection or processing which is in variance of the initial purpose shall not be done without the prior consent of the person.

(3) It shall be the duty of the data processor or controller to duly provide information and adequate explanation to the person while taking consent about the manner and extent to which personal data shall be accessed, collected, stored or processed.

*Explanation.*—For the purposes of this section "consent" shall have the same meaning and safeguards as provided under the Indian Contracts Act, 1872.

9 of 1875.

**17.** (1) Notwithstanding anything contained in section 16, where the personal data belongs to a minor as per the Indian Majority Act 1875, the consent of minor shall be—

- (a) obtained from a legal guardian; and
- (b) duly verified by the data controllers and processors:

Special provisions for consent in case of minors and persons with disability.

Provided that upon attaining majority, the minor shall have the right to either continue or terminate the consent given by the legal guardian on his behalf.

(2) In the case of differently abled persons, the data controllers and data processors shall make special provisions for providing privacy notices and obtaining consent in accordance with accepted standards and as per directions of the Authority.

**18.**(1) Every data controller and data processor must duly notify every person of the purpose for which data is collected, accessed or processed in a comprehensive format and with the adequate information as provided under Schedule II of the Act:

Purpose of data collection and processing.

Provided that in case of multiple purposes, each purpose shall be displayed separately and the ramifications thereof shall be provided to the person at the time of taking his consent.

(2) No personal data shall be collected, accessed or processed unless deemed necessary for achievement of the purpose specified under sub-section (1) and connected to the stated function:

Provided that if any other personal data is collected it shall be marked as "optional".

(3) Any additional or further processing of personal data for archiving or scientific or historical or statistical research, shall not be considered incompatible with the initial purpose if it is,—

- (a) bona fide;
- (b) in public interest; and
- (c) subject to adequate safeguards.

**19.** Personal data of a person with his consent may be collected or processed lawfully, if—

Collection or processing of personal data.

(a) necessary for performance of a contract or at a stage immediately prior to entering into a contract;

(b) required in furtherance of a legal obligation;

(c) in case of a person's medical emergency;

(d) necessary for administration of justice pursuant to a court order:

(e) required for performance of any statutory, governmental or other functions by data processor or controller as duly specified to the person subject to data collection;

(f) necessary for the legitimate interests pursued by data controller or processor or the third party to whom data is disclosed after it is duly informed to the person:

Provided that the interests of data processors or controller or third parties shall be adequately balanced against any prejudicial effect of the same on the rights and freedoms of the person as guaranteed under this Act and under the Constitution of India; and

(g) required for any other purpose as may be notified by the Central Government in consultation with the Authority, from time to time.

Special provisions for Sensitive personal data.

**20.** Notwithstanding anything contained in section 16 or section 19 of this Act,

(1) Sensitive personal data shall not be processed unless express, affirmative and explicit written consent of the person subject to data collection has been obtained through letter or fax or email from the said person.

(2) No sensitive personal data under sub-section (1) shall be processed for any purpose apart from for the specific purpose for which it was collected and/or implementation of welfare schemes and social protection laws.

(3) If sensitive personal data has been collected by various government agencies, institutions, authorities or private companies, partnerships or any other body corporate, for a specific purpose or as a part of a statutory or legal requirement and any form of collaborating, converging or monitoring between or individually by entities shall be expressly barred if it amounts to or reasonably lead to —

(a) individual profiling except for circumstances of reasonable restriction as mentioned under section 15 of this Act; or

(b) mass profiling or profiling of certain group or class of persons without any lawful reason or adequate basis; or

(c) unlawful access by third parties.

(4) It shall be the duty of the data controller or processor, as the case may be, to ensure that the sensitive personal data is collected, stored or processed, in accordance with this Act with reasonable advanced security measures and safeguards to ensure the safety of such data.

## CHAPTER IV

### TRANSFER, STORAGE AND SECURITY OF PERSONAL DATA

Prohibition on sharing of personal data.

**21.** No personal data shall be shared in contravention of the provisions of this Act.

Retention of personal data.

**22.** No personal data shall be retained after the achievement of purpose for which it was collected and has been duly completed up to the satisfaction of all parties:

Provided that nothing in this section shall apply to databases of sensitive personal data duly established by the Central Government or State Government, as the case may be.

Prohibition on prolonged or unnecessary storage of personal data.

**23.** (1) No person shall store any personal data of another person for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose is achieved or ceases to exist for any reason, for any period following such achievement or cessation.

(2) Save as provided in sub-section (3), any personal data collected or received in relation to the achievement of a purpose shall, if that purpose is achieved or ceases to exist for any reason, be destroyed forthwith.

(3) Notwithstanding anything contained in this section, any personal data may be stored for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose has been achieved or ceases to exist for any reason, for any period following such achievement or cessation, if —

(a) the person to whom it pertains grants his consent to such storage prior to the purpose for which it was collected or received being achieved or ceasing to exist; or

(b) it is required to be stored for historical, statistical or research purposes under the provisions of an Act of Parliament:

Provided that only that amount of personal data that is necessary to achieve the purpose of storage under this sub-section shall be stored and any personal data that is not required to be stored for such purpose shall be destroyed forthwith.

**24.** Any transfer of personal data to a third party shall be done pursuant to taking express, affirmative consent under Section 16 of this Act and after adequately informing them of the ramifications thereof in a comprehensive manner the requirements specified under Section 7 of this Act:

Transfer of personal data to third parties.

Provided that any transfer of data to third parties shall be done only after ensuring that the third parties' privacy policies and security standards are in no way less privacy preserving than that of the transferring party.

**25.** Any cross border transfer of personal data shall be done pursuant to taking express, affirmative consent under Section 16 of this Act and after adequately informing them of the ramifications thereof in a comprehensive manner the requirements specified under Section 7 of this Act:

Cross-border transfer of personal data.

Provided that any cross border transfer of data to any entity or person outside the territory of India shall be done only after ensuring that the privacy policies and security standards followed by such entity are in no way less privacy preserving than those prescribed under this Act.

**26.** For collecting, processing, storing, disclosing and/or otherwise handling personal data, pseudo - anonymisation shall be encouraged as far as possible.

Pseudo-anonymisation.

**27.** It shall be the duty of the data controller and data processor, as the case may be, in case of any breach, unauthorized access, destruction, use, processing, storage, modification, de-anonymisation, unauthorized disclosure (either accidental or incidental), or other reasonably foreseeable risks of personal data, to notify to the person who is the subject of such personal data as well as the Authority and take adequate steps to mitigate any harm or damage of the data security breach within seven days.

Notification of breach.

**28.** It shall be the duty of the data controller and processor, as the case may be, to maintain adequate security measures and safeguards in accordance with the nature and form of security protocol as notified by the Central Government in consultation with the Authority, from time to time.

Security protocol.

## CHAPTER V

### OBLIGATIONS OF DATA CONTROLLER AND PROCESSORS

**29. (1)** It shall be the duty of the data controller or processor, as the case may be to collect, store, access or process the personal data in a fair, lawful and transparent manner and in compliance with the provisions of this Act.

Collection, etc. of data in a fair, lawful and transparent.

(2) Any personal data obtained in contravention of sub-section (1) shall be deemed to be unlawfully obtained.

**30.** It shall be the duty of the data controller or processor or third party, as the case may be, to ensure that all personal data is reasonably shared only when it is necessary, while maintaining confidentiality and in compliance with the provisions of this Act.

Responsibility of sharing and use of personal data.

**31.** It shall be the duty of the data controller or processor or third party, as the case may be, to take adequate measure for fortification of data security against unauthorised or unlawful access or use, accidental loss, damage, or any form of cyber-attacks:

Fortification of data security.

Provided that in the case of a breach of data, it is the duty of the data controller or processor or third party to notify the affected persons within seven days of the occurrence of the breach as well as take adequate measures to mitigate any harm or damage:

Provided further that the burden of proof to substantiate that adequate measures are in accordance with the provisions of this Act, shall lie on the data controller or processor or third party, as the case may be.

Maintenance  
of accurate  
records.

**32.** It shall be the duty of the data controller or processor or third party, as the case may be, to maintain accurate records of data collected, accessed, stored and processed along with record of consent obtained as per the provisions of this Act.

Criminal  
liability.

**33.** Where a data controller or data processor or third party, as the case may be, has committed an offence under Chapter 8 which is punishable with imprisonment, every person in-charge of and responsible for the conduct of business shall, irrespective of direct commercial or financial benefit, incur criminal liability and be punished accordingly:

Provided that nothing contained in this Section shall render any such person in-charge liable to any punishment, if he proves to the satisfaction of the Authority that such offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Appointment  
of Data  
Protection  
Officer.

**34.** (1) Every data controller or processor or third party, as the case may be, shall appoint a Data Protection Officer having adequate technical expertise in the field of data collection or processing and the ability to address any requests, clarifications or complaints made with regard to the provisions of this Act:

Provided that the data controllers and processors employing less than live hundred people and having a per capita turnover of less than one crore rupees may jointly appoint a Data Protection Officer, for resolving or addressing any requests, clarifications or complaints made herein in collaboration with other bodies with similar size or turnover.

(2) No additional fee shall be charged for resolving or addressing any requests, clarifications or complaints made herein.

Role of Data  
Protection  
Officer.

**35.** (1) The Data Protection Officer shall—

(a) act as an independent person;

(b) address requests, clarifications or complaints made in writing, including through electronic form, by any aggrieved person or legal representative thereof;

(c) take steps to initiate an inquiry and commence proceedings within seven days of receiving the complaint;

(d) resolve the matter within ninety days of receipt of complaint;

(e) recommend the data controller or processor to take action; and

(f) record the proceedings, the results thereof and the reasons for arriving at the decision in writing.

(2) In cases where the Data Protection Officer has not been appointed or is unable to or does not adequately resolve the complaints within the stipulated period of ninety days, the complainant may approach the Data Privacy Authority for redressal of complaints.

## CHAPTER VI

### SURVEILLANCE

Bar against  
surveillance.

**36.** Except for the manner provided in this Act and the rules prescribed thereto, no person shall conduct or assist in conducting any surveillance of another person.

**37.** Any person except a public servant or authority duly authorised by the Central Government to order or conduct surveillance or to assist in pending investigation by the competent authority shall be expressly barred from initiating, assisting, conducting or abetting any act of surveillance under this Act.

Surveillance by private companies, partnerships or any other body corporate.

**38. (1)** The State has the power to collect, process, monitor and intercept personal data in accordance to the reasonable restrictions provided under section 15.

Surveillance by the State.

(2) Any officer authorised by the Central Government, on the basis of information received or lawfully discovered by police, armed forces, intelligence organisation or any public official, if satisfied that the information sets out a reasonable threat to sovereignty, integrity, national security or defence of public order, he may forward the same to the concerned intelligence organisations.

(3) The concerned intelligence organisation shall, on receipt of information mentioned under sub-section (2), if deem necessary, seek an order from the Authority who may either reject or issue an order allowing surveillance or interception of personal data for reasons recorded in writing and addressed to concerned organisation:

Provided that the every case referred to the Authority under this section shall be processed and an appropriate order shall be passed within a period of sixty days of receipt of the case:

Provided further that the order should specify the communications or class of communications to or from the persons or class of persons that shall be subject to the order.

(4) For the purpose of sub-section (2), a Special division shall be set up by the Central Government for assistance of the Authority for determination of the cases referred:

Provided that prior to issuing the order, the Authority shall satisfy itself that all other lawful means to acquire the information sought to be intercepted has been exhausted and that the proposed interception is reasonable, proportionate and not excessive.

(5) The Special division set up under section (4) shall have the power to conduct preliminary investigation in the manner as prescribed by the Central Government, from time to time, submit their findings to the Authority who shall thereafter issue a detailed order to the intelligence organisation:

Provided that in case of military intelligence, which appears to be inaccessible or sensitive and/or confidential, the Authority shall consult the Cabinet Secretary, Government of India for the purposes of issuance of order under this section.

(6) After, receipt of order from the Authority the intelligence organisation shall conduct surveillance in accordance to the express conditions provided in the order.

**39.** Every order issued under section 38 shall specify the time period for carrying out the surveillance by the intelligence organisation of the personal data:

Duration of surveillance.

Provided that if any extension is required for the surveillance, the intelligence organisation shall approach the Authority along with reasons for such extension.

**40.** Every State authority, intelligence organisation or private companies, partnerships or any other body corporate shall, as the case may be, which participate, assist, co-operate, conduct or carry out activity to facilitate surveillance pursuant to provisions of this chapter, take reasonable steps to ensure security of the data so collected and maintain the confidentiality and secrecy thereof.

Security and duty of confidentiality and secrecy.

**41.** If at any stage, information or personal data obtained through surveillance is required to be produced in a court of law, the onus to prove that the same has been collected in accordance with the provisions of this Act while maintaining a proper chain of custody

Admissibility in court.

without any tampering or external interference shall be on the concerned State authority, intelligence organisation or private entity, as the case may be.

No targeted individual profiling.

**42.** Any targeted profiling of individuals or of a certain section or class of persons without any basis and harassment, whether physical or financial or other means, shall be expressly barred and be deemed as violation of privacy under this Act.

Storage of surveillance.

**43.** No information or personal data that is collected in the process of surveillance which is not relevant for the purposes of evidence or for continuing investigation by the intelligence organisations shall not be stored by or accessible to the intelligence organisations after a period of expiry of one year from the date on which the order under which the information was obtained.

## CHAPTER VII

### DATA PRIVACY AUTHORITY

Constitution of Data Privacy Authority.

**44.** The Central Government shall, by notification in the Official Gazette, constitute an Authority to be known as the Data Privacy and Protection Authority for carrying out the purposes of this Act in such manner as may be prescribed.

Appointment of Chairperson and other members to the Authority.

**45. (1)** The Central Government shall, in consultation with the Chief Justice of India, appoint a Chairperson and other members to the Authority in such manner as may be prescribed.

(2) The Authority shall constitute of judicial members as well as technical members in equal proportion.

(3) A judicial member shall otherwise be qualified to be a High Court Judge or have been a member of the Indian Legal Services and have held a post in Grade I of that Service for at least three years.

(4) A technical member shall have expertise, special knowledge of and adequate professional experience in technology and processing/collection of data.

(5) The Chairperson of the Authority shall be the senior-most judicial member.

Constitution of Benches.

**46. (1)** Subject to the provisions of this Act, the Authority may, by notification in the Official Gazette, constitute Benches to exercise the jurisdiction, powers and authority conferred to under this Act.

(2) Each Bench shall consist of at least one judicial and one technical member of the Authority to be decided by Chairperson in such manner as may be prescribed.

(3) The Benches of the Authority shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Authority, by notification in the Official Gazette, specify.

(4) The Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Authority may exercise its territorial jurisdiction.

(5) Notwithstanding anything contained in sub-section (3), the Chairperson of the Authority may transfer a member from one Bench to another Bench for carrying out the purposes of this Act in such manner as may be prescribed.

(6) If at any stage of the hearing of any case or matter it appears to the Chairperson or a member of the Authority that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

47. (1) The Chairperson and every member of the Authority shall hold office for a period of five years or till the age of sixty-five years whichever is earlier:

Provided that no member shall be elected for more than two consecutive terms.

(2) The Central Government shall remove a person from the office of Chairperson or member, as the case may be, if that person—

(i) has been adjudged as insolvent;

(ii) has been convicted of an offence of moral turpitude or any other offence as may be deemed appropriate and notified by the Central Government:

(iii) has become physically or mentally incapable of acting as a member;

(iv) has acquired such financial or other interest as is likely to prejudicially affect completion of duties;

(v) has abused his position in such a manner that continuance in office shall be prejudicial to public interest:

Provided that no person shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(3) The salary and allowances payable to and other terms and conditions of service of Chairperson and members of the Authority shall be such as may be prescribed.

5 of 1908. 48. (1) The Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules.

(2) The Authority shall have power to regulate its own procedure including the place at which it shall have its sittings.

5 of 1908. (3) The Authority shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other electronic records;

(c) receiving evidence on affidavits:

(d) issuing commissions for the examination of witnesses or documents;

(e) calling upon any data processor or data controller at any time to furnish in writing such information or explanation as may be deemed necessary;

(f) hearing and deciding matters where criminal liability is involved with respect to the provisions of this Act;

(g) issuing an order for search and seizure pursuant to a complaint or *suo-moto* if there is *prima facie* evidence of contravention or violation of this Act;

(h) reviewing its decisions;

(i) dismissing an application for default or deciding it *ex parte*; and

(j) any other matter which may be prescribed.

45 of 1860.  
2 of 1974. (4) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 and the Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Terms of office, conditions of service, removal of Chairperson and members.

Procedure and Powers of the Authority.

Functions of  
the Bench.

**49.** The Authority shall,—

(a) adjudicate all disputes and contraventions of the provisions of this Act referred to it, impose penalties and punishments thereof;

(b) study and undertake impact assessment of Bills tabled before each House of Parliament, existing legislation, ordinances and rules pertaining to the subject matter of this Act as it deems necessary and make recommendations to the concerned Ministry;

(c) consult with stakeholders on any issues pertaining to the subject matter of this Act which are of public importance;

(d) consult with the Central Government according to the provisions of this Act; and

(e) *suo-moto* initiate inspection of Data Controllers and Data Processors to assess compliance with the provisions of this Act.

Filing of  
Complaints.

**50.** Any person aggrieved by the decision of the Data Protection Officer or not received any adjudication despite lapse of ninety days may file a written complaint with regard to non-compliance, contravention or any other violation of this Act before the Authority:

Provided that where the Data Protection Officer is not appointed, the person may directly approach the Authority.

Issuance of  
orders.

**51.** The Bench shall upon adjudicating the complaints referred to in section 50 award fines, call for directive or injunctive measures, compensation and/or imprisonment of such term as it may deem appropriate.

Appeal.

**52.** An appeal against the decision of the Bench shall lie to the Telecom Disputes Settlement Appellate Tribunal set up in accordance with the provisions of the Telecom Regulatory Authority Act, 1997.

24 of 1997.

Civil Court  
not to have  
Jurisdiction.

**53.** No civil court have jurisdiction to entertain any suit or proceedings in respect of any matter dealt with under the provisions of this Act.

## CHAPTER VIII

### OFFENCES AND PENALTIES

Punishment for  
offences related  
to personal data.

**54.** Whoever, except in compliance with the provisions of this Act, collects, stores, receives, processes, publishes or otherwise handles personal data shall be punishable with a term of imprisonment for a term which may extend up to five years and fine which may extend up to rupees fifty thousand for each day of unlawful access to the personal data:

Provided that where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Punishment  
for offences  
related to  
sensitive  
personal data.

**55.** Whoever, except in compliance with the provisions of this Act, collects, stores, receives, processes, publishes or otherwise handles sensitive personal data shall be punishable with a term of imprisonment which may extend up to ten years and fine which may extend up to rupees one lakh for each day of unlawful access to the personal data and shall also be required to provide adequate compensation to the person whose sensitive personal data has been breached to be determined by the Authority in such manner as may be prescribed.

**56.** Whoever breaches confidentiality or compromises security of any personal data being collected as a part of surveillance authorised under this Act shall be liable to be punished with a term of imprisonment which may extend up to ten years and/or fine which may extend up to rupees fifty thousand for each day of said breach.

Breach of confidentiality and security in certain cases.

**57.** Whoever has been victim of profiling and harassment, whether physical or financial under section 42 shall be entitled to adequate compensation for financial loss and mental trauma in such manner as may be prescribed.

Compensation in case of harassment and profiling.

**58.** Any wilful non-compliance of a direction or order of the Bench shall be punishable with imprisonment for a term which may extend upto six month and fine which may extend upto rupees fifty thousand for each day of said breach.

Penalty for contravention of directions.

2 of 1974.

**59.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this chapter shall be treated as cognizable.

Cognizance.

## CHAPTER IX

### MISCELLANEOUS

**60.** No suit or other legal proceeding shall lie against the Central Government, State Government, Chairperson or Member of the Authority, or any person acting under the direction either of the Central Government, State Government, Chairperson or Member of the Authority, as the case may be, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder.

Protection of action taken in good faith.

**61.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Act.

24 of 1997.  
21 of 2000.

**62.** The provisions of this Act shall have overriding effect over the Telecom Regulatory Authority Act, 1997 the Information Technology Act, 2000 or any other legislation pertaining to collection, processing, interception and monitoring of personal data.

Overriding effect.

**63. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## SCHEDULE I

*[See Section 3(2)]*

## EXCEPTIONS

This Act shall not apply to collection or processing of data which falls within the following categories—

1. purely for personal reasons or pertaining to household activities;
2. of a deceased person;
3. eligible to be disclosed under the Right to Information Act, 2005; and
4. that is anonymised and cannot be used to identify the natural person.

## SCHEDULE II

[See section 3]

## PRIVACY NOTICE

Any privacy notice published under this Act must contain the following ingredients—

- (a) What personal data or information is being collected;
- (b) the purposes of the processing;
- (c) the categories of personal data concerned;
- (d) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations along with the safeguards thereof;
- (e) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
- (f) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
- (g) the right to lodge a complaint with the competent authority;
- (h) where the personal data are not collected from person, any available information as to their source.
- (i) the existence of automated decision-making, including profiling, and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the person.

## STATEMENT OF OBJECTS AND REASONS

While right to life and personal liberty are granted under article 21 of the Constitution of India, our jurisprudence, judicial pronouncements and case laws have extended it to encompass *inter alia*, a life of dignity. However, there is no express statutory grant of right to privacy.

The Hon'ble Supreme Court has recognised the right to privacy in a limited and reasonable manner with the landmark case of *Kharak Singh v. The State of U.P.* It has further expounded on the principle and safeguards thereof in various landmark cases such as *PUCCL v. Union of India* and *Selvi v. Union of India*, delineating the extent of the right to privacy in communications and the right to withhold consent to certain privacy violations, respectively.

With the increased proliferation of technology in daily lives, it is becoming increasingly important for us to recognise and implement a meaningful right to privacy as also recognised by the Special Rapporteur on the Right to Privacy, Office of the High Commissioner for Human Rights. Further, India has globally, as a party to the Universal Declaration of Human Rights (UDHR), and the International Covenant for Civil and Political Rights (ICCPR), acknowledged the right to privacy as an universal human right under Article 12 of the UDHR and Article 17 of the ICCPR.

On one hand, there is significant success of Aadhaar, which is the largest biometric database in the world, as a means to implement social welfare schemes and serves as a tool for financial inclusion. On the other hand, there is reasonable apprehension as to the security of the information contained in the database and during any information transmission as a part thereof.

Today, personal data is being collected and processed at a much larger scale that is not limited to AADHAAR; every application and website we use collects and processes our personal data. Our personal data is vulnerable to any non-State actor, private entity around the globe with the technological know-how to access and process this data unlawfully. It may be utilised by Non-State Actors to target Indian citizens through cyber-attacks for financial gains as well as to profile the interests of any person. Ready availability and accessibility of personal data can also assist terror groups or religiously extreme groups in profiling, propagating extremist ideology and preying on young, poor and destitute.

The present Bill is an effort to avoid situations like a country-wide hack like in the case of Estonia in 2007 and the recent global ransomware attack 'WannaCry' in 2017. Globally, data is being considered the new oil and in the coming years, our international trade and economic relations will depend on the health and bargaining power of our data economy. Hence it is timely to address the issue on data protection and protect the privacy of all persons. It intends to provide rights of persons *vis-a-vis* their own information, as well as procedures for data collection, data processing, reasonable and targeted surveillance, and means of redress in case of breaches and violations.

In light of this, while the collection and processing of data is important, there is an overwhelming need to secure personal data and ensure better security by creating a statutory obligation to safeguard data and individuals. To that effect, this Bill seeks to establish *Inter alia*, a balance between rights of individuals and legitimate intervention by the State.

The Bill seeks to codify and safeguard the right to privacy for all juristic persons in the digital age, balanced with the need for data protection in the interests of national security.

Hence this Bill.

NEW DELHI;  
*April 7, 2017*

BAIJAYANT PANDA

## FINANCIAL MEMORANDUM

Clause 34 of the Bill provides for appointment of Data Protection Officer. Clause 44 provides for establishment of the Data Privacy Authority for carrying out the purposes of this Act. Clause 45 provides for the appointment of a Chairperson and other members to the Authority. Clause 46 provides for constitution of Benches by the Authority. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees ten crores would involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crores is also likely to be involved out of the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 63 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 81 OF 2017

*A Bill to provide for the socio-economic protection and welfare of the fishermen of the coastal States of the country by establishing a Welfare Fund for their benefit and for providing adequate life insurance cover against accidents, medical care, financial assistance for fishing nets, boats and other necessities, unemployment allowance during lean periods, free education including vocational education and training to their children and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Fishermen (Protection and Welfare) Act, 2017.

Short title,  
extent and  
commencement.

(2) It extends to the coastal States of India having substantial population of fishermen.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "accident" means an accident caused during the course of fishing including drowning;

(b) "administrator" means an administrator appointed under section 5;

(c) "appropriate Government" means in the case of State, the Government of State having coastline and in the case of Union territories having coastline, the Central Government;

(d) "fisherman" means a person who earns his livelihood by catching fish from the sea including traditional fishermen and whose only source of income is the money he earns from selling such fish and includes a person working as fisherman's helper;

(e) "Fund" means the Fishermen Welfare Fund established under section 4;

(f) "partial disablement" means disablement which has reduced the working capacity of a fisherman temporarily which he was capable of having before the accident;

(g) "prescribed" means prescribed by rules made under this Act; and

(h) "total disablement" includes any disablement which incapacitates a fisherman for all work which he was capable of performing prior to the accident.

Long term  
National  
Policy for the  
welfare of  
fishermen.

**3.** The Central Government shall, as soon as may be, but within one year from the commencement of this Act, formulate, in consultation with the appropriate Government, a long term national policy for the welfare of fishermen and their families and protection of their fishing rights and interests against the onslaught of big fishing companies including the multinationals.

Establishment  
of Fishermen  
Welfare Fund.

**4.** (1) The Central Government shall, by notification in the Official Gazette, establish a Fund to be known as the Fishermen Welfare Fund for carrying out the purposes of this Act.

(2) The initial corpus of the Fund shall be ten thousand crore rupees which shall be provided by the Central Government after due appropriation made by Parliament by law in this behalf.

(3) After the establishment of the Fund, moneys to the Fund shall be provided by the Central Government and the appropriate Governments in such proportion as may be agreed to from year to year and the money received by way of donations from individuals, body corporates, financial and other institutions shall also form the corpus money of the Fund.

Appointment of  
administrators.

**5.** The Central Government shall, by notification in the Official Gazette, appoint such number of Administrators who shall administer the Fund and entertain the claims for payment of compensation and other facilities under this Act.

Utilisation  
of the Fund.

**6.** The Fund shall be utilised for,—

(a) maintaining digital data of fishermen and their dependant family members for every district of the State and Union territory having coastline;

(b) life insurance cover to the fishermen and their families;

(c) free medical care to the fishermen and their family members;

(d) financial assistance to the fishermen for the purchase and repair of fishing nets, boats and other equipments required for fishing;

(e) unemployment allowance during illness or financial crisis during lean periods;

(f) free education including technical and vocational education to the children of fishermen; and

(g) such other purposes as may be prescribed.

**7.** (1) Subject to the provisions of this Act, the amount of compensation payable to a fisherman sustaining injury resulting in his death or partial or total disablement or in case of his drowning or sweeping away by the water currents or in his disappearance in a storm or cyclone or tsunami, shall be such as may be specified by the Central Government from time to time by notification in the Official Gazette.

Fixation of compensation and payment thereof.

(2) In case of death of a fisherman, the compensation fixed under sub-section (1) shall be paid to the spouse of the deceased or to his legal heir or to the children, as the case may be, and in case the deceased being unmarried, the compensation shall be paid to his parents.

(3) Every claimant for payment of compensation under this Act shall apply to the Administrator in such form and giving such details, as may be prescribed.

(4) Every claim for compensation under this Act shall be finalized by the Administrator and payment thereof shall be made within sixty days from the date of filing of claim.

**8.** The appropriate Government shall—

Miscellaneous provisions.

(a) establish adequate number of schools and vocational training institutes and healthcare centres in and around the areas inhabited by fishermen for their benefit including their families and children;

(b) provide adequate and hygienic marketing facilities to the fishermen for their catch;

(c) provide subsidy on kerosene and petrol;

(d) protect the fishing rights and interests of the fishermen by preventing national and multinational companies from fishing in such areas in the sea as are allocated to fishermen by the Central Government from time to time;

(e) encourage the fishermen to use latest technology for fishing and impart training to fishermen for using safety measures during fishing;

(f) through the Coast Guard and Navy, prevent the trespassing by fishermen of other countries into the Indian waters;

(g) take up issue of release of Indian fishermen who stray into waters and economic maritime zone of neighbouring countries and detained with their boats and nets by such countries;

(h) set up rehabilitation centres for fishermen during emergencies with all basic facilities; and

(i) take such other measures as it may deem necessary for the protection and welfare of fishermen.

**9.** The provisions of this Act shall be in addition to and not in derogation of any other law applicable to fishermen for the time being in force.

Act not in derogation of other laws.

**10.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments and Union territories administrations having coastline for carrying out the purposes of this Act.

Central Government to provide requisite funds.

**11.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

There are millions of fishermen and their families spread over Southern, Eastern and Western parts of the country. Their main occupation and means of livelihood is catching fish and selling it in the market and they are doing this for generations. However, the fishermen and their families live in abject poverty nearly hand to mouth whereas the middlemen, wholesalers and retail traders of fish flourish at their cost as the sea food is becoming popular not only in the country but worldwide. Sea products are very much in demand but the status of fishermen has remained the same. Many of the fishermen are carried away by water currents particularly during storms and cyclones and they lose their lives. Similarly they get drowned during fishing or receive injuries leading to partial or total disablement. But there is nobody to look after them except their hapless poor families. In fact the disablement or death of a fisherman ruins his family who remain at the mercy of fate alone.

Since the poor fishermen are part and parcel of our society and ours being a welfare State, it is necessary that the fishermen too are provided with adequate insurance against accidents, healthcare, financial assistance in case of need, educational facilities for their wards, etc. They should also get subsidy on kerosene and petrol and cold storage and marketing facilities for their catch. Sometimes fishermen from neighbouring countries trespass into our water and carry the catch which need to be stopped. In fact the nation has to give maximum security and facilities to the fishermen of the country.

Hence this Bill.

NEW DELHI;  
*April 10, 2017.*

NARENDRA KESHAV SAWAIKAR

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#### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Fishermen Welfare Fund. Clause 5 provides for the appointment of Administrators. Clause 8 provides for certain facilities for fishermen. Clause 10 provides that the Central Government shall provide adequate funds to the States for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees twenty thousand crore may also involve.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL No. 86 OF 2017

*A Bill to amend the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Amendment Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Section 2. **2.** In section 2 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 (hereinafter referred to as the principal Act),—

18 of 2016.

(a) in clause (g), for the words "Iris scan, or such other biological attributes of an individual as may be specified by regulations", the words "and Iris scan" shall be substituted; and

(b) in clause (k), the words , "as may be specified by regulations" shall be omitted.

**3.** After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

"3A. Notwithstanding anything contained in section 3, every resident shall have the option to discontinue as a holder of an Aadhaar number:

Discontinuation of an Aadhaar number.

Provided that if an individual who opts to discontinue as a holder of Aadhaar number, such individual shall be entitled and permitted to have his Aadhaar number deleted from the Central Identities Data Repository and on such deletion, all his data including the demographic and biometric information as well as all his authentication records shall be destroyed forthwith and a certificate to that effect shall be issued by the Authority within fifteen days from the making of such request."

**4.** In section 7 of the principal Act, in the proviso, after the words "assigned to an individual", the words "or if an individual chooses not to opt for enrolment or have opted to discontinue as a holder of an Aadhaar number" shall be inserted.

Amendment of section 7.

**5.** In section 8 of the principal Act, —

Amendment of section 8.

(a) in sub-section (2), in clause (a), the words "in such manner as may be specified by regulations" shall be omitted; and

(b) in sub-section (4), after the words "such identity information", the words "respecting the privacy of the individual" shall be inserted.

Amendment of section 23.

**6.** In section 23 of the principal Act,—

(a) in sub-section (3), in clause (a), the words "or other agencies" shall be omitted; and

(b) in sub-section (4), for the words "on such allowances or remuneration and terms and conditions as may be specified by contract", the words "after a fair tendering process conducted by the Authority" shall be substituted.

Amendment of section 28.

**7.** In section 28 of the principal Act, in sub-section (3), the words "or regulations made thereunder" shall be omitted.

Amendment of section 29.

**8.** In section 29 of the principal Act,—

(a) in sub-section (1), for the words "No core biometric information, collected or created under this Act," the words "Notwithstanding anything contained in this Act or any other law for the time being in force, no core biometric information, collected or created under this Act," shall be substituted; and

(b) in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

"(b) disclosed further for any purpose."

Amendment of section 33.

**9.** In section 33 of the principal Act,—

(a) in sub-section (1), in the proviso, after the word "Authority", the words "and permission from the individual whose data is to be disclosed" shall be inserted; and

(b) in sub-section (2),—

(i) for the words "national security", the words "public emergency or in the interest of public safety" shall be substituted; and

(ii) in the first proviso, after the words "Oversight Committee consisting of", the words "the Central Vigilance Commissioner or the Comptroller and Auditor-General and" shall be inserted.

Amendment of  
section 54.

**10.** In section 54 of the principal Act, in sub-section (2),—

(a) in clause (a), the words “the biometric information under clause (g) and the demographic information under clause (k), and” shall be omitted; and

Amendment of  
section 57.

(b) clause (f) shall be omitted.

**11.** In section 57 of the principal Act, after the first proviso, the following proviso shall be inserted:

"Provided further that where the security and confidentiality of identity information collected under this section is compromised because of a lapse attributable to the entity requesting such information, such entity shall be liable to be dealt with in accordance with the provisions of section 37."

## STATEMENT OF OBJECTS AND REASONS

Aadhaar is a twelve digit number that serves as a unique identifier for Indian citizens and residents. It was introduced in 2010, with the intentions of making subsidy and benefit deliverance more effective and eliminate leakages in the process. The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 has been enacted with a view to provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers.

The recent notification by the Government mandating the possession of an Aadhaar number for receiving benefits for various schemes covered by the direct benefit transfer programme has created a furore. Reports from the States of Gujarat, Jharkhand, Andhra Pradesh and other States describe the exclusion of genuine beneficiaries because of problems with the Aadhaar records and authentication issues, besides technological and infrastructural failures.

Aadhaar may involve certain issues, such as security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases: impersonation by certain individuals at the time of enrolment for issue of Aadhaar; unauthorised access to the Central Identities Data Repository (CIDR); manipulation of biometric information; investigation of certain acts constituting offence; and unauthorised disclosure of the information collected for the purpose of issue of Aadhaar.

In 2012, Justice A. P. Shah Committee enumerated a large number of principles which the Aadhaar legislation must follow to make it privacy-compatible. The Supreme Court reaffirmed an earlier ruling from 2013, stating that Aadhaar can only be a voluntary decision of the individual and that as long as a person is eligible to avail benefits and subsidies, the Government cannot deny them those benefits and subsidies because on the basis that they do not have an Aadhaar card. Despite this ruling, the Union Government decided to push through with these moves.

Aadhaar shall be used voluntarily and not mandatory. Every individual must have the flexibility to opt out of Aadhaar. The current legislation does not allow the room for manoeuvre to somebody to either opt out of Aadhaar or somebody who does not desire an Aadhaar number. There are also strong apprehensions on the issue of privacy and national security relating to misuse and mishandling of information in the Aadhaar number.

Hence this Bill.

NEW DELHI;  
*April 11, 2017.*

BALKA SUMAN

ANOOP MISHRA  
*Secretary General*